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Friday, July 18, 1980

Highlights

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service; Executive Office of the President

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Secretary to the Assistant to the Director for Special Projects, Office of Management and Budget because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: September 26, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Martha Smith, Executive Office of the President, 202–395–3765.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3303(a)(15) is added as set out below.

§ 213.3303 Executive Office of the President.

(a) *Office of Management and Budget.* * * *

(15) One Secretary to the Assistant to the Director for Special Projects.

(5 U.S.C. 3301, 3302; EO 10577 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21523 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Executive Office of the President

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of a position at the Executive Office of the President from Executive Assistant to the Special Representative for Trade Negotiations, to Special Assistant to the Special Representative for Trade Negotiations, to more appropriately reflect the duties of the position.

EFFECTIVE DATE: September 26, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Gertrude Melton, Executive Office of the President, 202–395–3765.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3303(d)(2) is revised as set out below:

§ 213.3303 Executive Office of the President.

* * * * *

(d) *Office of the Special Representative for Trade Negotiations.* * * *

(2) One Special Assistant to the Special Representative.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21524 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Executive Office of the President

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C certain positions at the Executive Office of the President, Office of the Special Representative for Trade Negotiations: One Secretary (Steno) to the Special Representative; one Secretary (Steno) to the Executive Assistant to the Special Representative; and one Confidential Secretary to a Deputy Special Representative because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: October 24, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Gertrude Melton, Executive Office of the President, 202–395–3765.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3303(d) (5) and (6) are revised and (d)(7) is added as set out below:

§ 213.3303 Executive Office of the President.

* * * * *

(d) *Office of the Special Representative for Trade Negotiations.* * * *

(5) One Confidential Assistant and one Secretary (Steno) to the Special Representative.

(6) One Confidential Assistant and one Confidential Secretary to the Deputy Special Representative for Trade Negotiations. * * *

(7) One Secretary (Steno) to the Executive Assistant to the Special Representative.

(5 U.S.C. 3301, 3302; EO 10577 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21525 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Executive Office of the President

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Public Information Officer to the Special Assistant to the Special Representative for Congressional and Public Affairs, Executive Office of the President, because it is confidential in nature. Appointments may be made to this

position without examination by the Office of Personnel Management.

EFFECTIVE DATE: February 13, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Gertrude Milton, Executive Office of the President, 202–395–3765.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3303(d)(8) is added as set out below:

§ 213.3303 Executive Office of the President.

* * * * *

(d) *Office of the Special Representative for Trade Negotiations.*

* * *

(8) One Public Information Officer to the Special Assistant to the Special Representative for Congressional and Public Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–21526 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of State

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Personal Representative of the President, Department of State, because it is confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: October 24, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Frances Jones, Department of State, 202–632–5350.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3304(a)(6) is revised as set out below:

§ 213.3304 Department of State.

(a) *Office of the Secretary.* * * *

(6) One Executive Assistant, two Special Assistants, one Staff Assistant, one Secretary (Steno), and one Motor Vehicle Operator to the Personal Representative of the President.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–21527 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of State

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Protocol Officer (Ceremonials) to the Chief of Protocol, Department of State, because it is confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: September 21, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Frances Jones, Department of State, 202–632–5350.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3304(a)(17) is added as set out below:

§ 213.3304 Department of State.

(a) *Office of the Secretary.* * * *

(17) One Protocol Officer (Ceremonials).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–21528 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of State

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Staff Assistant to the Chief of Protocol, Department of State, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: November 30, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Frances Jones, Department of State, 202–632–5350.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3304(a)(23) is revised as set out below:

§ 213.3304 Department of State.

(a) *Office of the Secretary.* * * *

(23) One Secretary (Steno) and one Staff Assistant to the Chief of Protocol.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–21529 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of State

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one additional Member of the Policy Planning Staff, Department of State, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: October 18, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Frances Jones, Department of State, 202–632–5350.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3304(a)(29) is revised as set out below:

§ 213.3304 Department of State.

(a) *Office of the Secretary.* * * *

(29) Eight Members of the Policy Planning Staff.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–21530 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of State

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Assistant Secretary for the Bureau of International Narcotics Matters, Department of State, because it is

confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: January 25, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Fran Jones, Department of State, 202–632–5350.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3304(g) is added as set out below:

§ 213.3304 Department of State.

* * * * *

(g) *Bureau of International Narcotics Matters.*

(1) One Special Assistant to the Assistant Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21531 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of State

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Public Information Specialist to the Assistant Secretary, Bureau of International Organization Affairs, Department of State, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: October 19, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Frances Jones, Department of State, 202–632–5350.

Office of Personel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3304(h)(1) is revised as set out below:

§ 213.3304 Department of State.

* * * * *

(h) *Bureau of International Organization Affairs.* (1) One Secretary (Steno) and one Public Information Specialist to the Assistant Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21532 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of State

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Director, Bureau of Politico-Military Affairs, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: January 16, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Frances Jones, Department of State, 202–632–5350.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3304(v)(1) is revised as set out below:

§ 213.3304 Department of State.

* * * * *

(v) *Bureau of Politico-Military Affairs.* (1) One Private Secretary and one Special Assistant to the Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21533 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of the Treasury

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Secretary (Consumer Affairs), Department of the Treasury, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: December 31, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Charlene Robinson, Department of the Treasury, 202–566–2258.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3305(a)(3) is added as set out below:

§ 213.3305 Department of the Treasury.

(a) *Office of the Secretary.* * * *

(3) One Special Assistant to the Secretary (Consumer Affairs).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218

[FR Doc. 80-21534 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Defense

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Staff Assistant to the Secretary, Department of Defense, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: February 5, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Michael Sekol, Department of Defense, 202–697–1703.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3306(a)(1) is revised as set out below:

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* (1) One Special Assistant, one Personal Assistant, six Private Secretaries and one Staff Assistant to the Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21535 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Defense

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of a position at the Department of Defense from Private Secretary to the Deputy Director of Defense Research and Engineering (Research and Advanced Technology) to Private Secretary to the Deputy Under Secretary of Defense Research and Engineering (Research and Advanced Technology) to reflect the current title of the superior.

EFFECTIVE DATE: December 28, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Michael Sekol, Department of Defense, 202–697–1703.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3306(a)(2) is revised as set out below:

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* * * *

(2) One Private Secretary to the Deputy Secretary of Defense and one Private Secretary to each of the following: Under Secretary of Defense for Research and Engineering; the Principal Deputy Director of Defense Research and Engineering; the Deputy Directors of Defense Research and Engineering (Tactical Warfare Programs) (Strategic and Space Systems); Deputy Under Secretary of Defense Research and Engineering (Research and Advanced Technology); the Director, Advanced Research Project Agency; the Assistant Secretaries of Defense (Manpower and Reserve Affairs) (International Security Affairs) (Public Affairs) (Installations and Logistics) (Comptroller) (Program Analysis and Evaluation), and the Assistant to the Secretary of Defense (Legislative Affairs); the General Counsel; the Assistant to the Secretary of Defense (Atomic Energy); and the Military Assistants to the Secretary of Defense.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–21537 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; Department of Defense

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant for Education to the Deputy Assistant Secretary of Defense (Program Management), Department of Defense, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: February 29, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Michael Sekol Department of Defense, 202–697–1703.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3306(a)(9) is added as set out below:

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* * * *

(9) One Special Assistant for Education to the Deputy Assistant Secretary of Defense (Program Management).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–21538 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; Department of Defense

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Director, American Forces Information Services, Department of Defense because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: December 10, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Michael Sekol, Department of Defense, 202–697–1703.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3306(a)(14) is added as set out below:

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* * * *

(14) Special Assistant to the Director, American Forces Information Services.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–21539 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; Department of Defense

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C at the Department of Defense, one Private Secretary to the Deputy Under Secretary of Defense (Policy and Planning) and one Special Assistant to the Assistant Deputy Under Secretary of Defense (Policy and Planning) because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: December 17, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Michael Sekol, Department of Defense, 202–697–1703.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3306(a) (15) and (19) are added as set out below:

§ 213.3306 Department of Defense

(a) *Office of the Secretary.* * * *

(15) One Private Secretary to the Deputy Under Secretary of Defense (Policy and Planning).

* * * * *

(19) One Special Assistant to the Assistant Deputy Under Secretary of Defense (Policy and Planning).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–21540 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; Department of Defense

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Staff Assistant to the Deputy Chief of Staff, White House, Department of Defense, because it is

confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: November 1, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Michael Sekol, Department of Defense, 202–697–1703.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3306(a)(20) is added as set out below:

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* * * *

(20) One Staff Assistant to the Deputy Chief of Staff, White House.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–21541 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of Defense

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Staff Assistant to the Deputy Special Assistant, Department of Defense because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: September 27, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Michael Sekol, Department of Defense, 202–697–1703.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3306(a)(21) is added as set out below:

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* * * *

(21) One Staff Assistant to the Deputy Special Assistant.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–21542 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of Defense

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment (1) changes the title of a position at the Department of Defense from Staff Assistant (Interdepartmental Activities) to the Assistant to the General Counsel/Office of Administration to reflect the superior's new title and (2) revokes a position because it has been vacant for more than 60 days.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Michael Sekol, Department of Defense, 202–697–1703.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3306(c)(3) is revised as set out below:

§ 213.3306 Department of Defense.

* * * * *

(c) *Interdepartmental Programs.* * * *

(3) One Staff Assistant (Interdepartmental Activities) to the General Counsel/Office of Administration.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–21543 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of Defense

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Staff Assistant (Outreach Activities) to the Director, Presidential Personnel Office, Department of Defense, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: February 5, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Michael Sekol, Office of Personnel Management, 202–632–6000.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3306(c)(5) is added as set out below:

§ 213.3306 Department of Defense.

* * * * *

(c) *Interdepartmental Programs.* * * *

(5) One Staff Assistant (Outreach Activities) to the Director, Presidential Personnel Office.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–21544 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of the Army

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Staff Assistant to the Assistant Secretary of the Army (Manpower and Reserve Affairs), Department of the Army because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: February 29, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Laura Gilmore, Department of the Army, 202–697–2105.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3307(c)(1) is revised as set out below:

§ 213.3307 Department of the Army.

* * * * *

(c) *Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs).* (1) One Special Assistant and one Staff Assistant to the Assistant Secretary of the Army (Manpower and Reserve Affairs).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–21545 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of the Navy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Staff Assistant to the Deputy Under Secretary, Department of the Navy, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: February 5, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Mary Anne Bruce, Department of the Navy, 202–692–7921.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3308(a)(15) is revised as set out below:

§ 213.3308 Department of the Navy.

(a) *Office of the Secretary.* * * *

(15) One Special Assistant for Environment and one Staff Assistant to the Deputy Under Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21546 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of the Air Force

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of a position at the Department of the Air Force from Private Secretary to the Secretary to Secretary (Steno) to the Assistant to the Vice President for National Security Affairs to reflect an organizational transfer.

EFFECTIVE DATE: January 24, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Kathleen Peyton, Department of the Air Force, 202–697–1806.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3309(a)(1) is revised and (a)(5) is added as set out below:

§ 213.3309 Department of the Air Force.

(a) *Office of the Secretary.* * * *

(1) One Private Secretary to the Secretary, one Private Secretary to the Under Secretary, and one Private Secretary to each of three Assistant Secretaries.* * *

(5) One Secretary (Steno) to the Assistant to the Vice President for National Security Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21547 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Justice

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C three Special Assistants to the Attorney General, Department of Justice, because they are confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: October 5, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Roberta Gross, Department of Justice, 202–633–1846.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3310(a)(1) is added as set out below:

§ 213.3310 Department of Justice.

(a) *Office of the Attorney General.* * * *

(1) Three Special Assistants to the Attorney General.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21548 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Justice

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Deputy Associate Attorney General, Office of the Attorney General, Department of Justice, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: October 23, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Roberta Gross, Department of Justice, 202–633–1846.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3310(a)(12) is revised as set out below:

§ 213.3310 Department of Justice.

(a) *Office of the Attorney General.* * * *

(12) One Confidential Assistant, one Special Assistant, and one Deputy Associate Attorney General to the Associate Attorney General.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21549 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Justice

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C an Associate Director for Public Affairs, Department of Justice, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: January 16, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Roberta Gross, Department of Justice, 202–633–1846.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3310(i)(1) is added as set out below:

§ 213.3310 Department of Justice.

* * * * *

(i) *Drug Enforcement Administration.*

* * *

(1) One Associate Director for Public Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21550 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of the Interior

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C at the Department of the Interior, one Confidential Assistant to the Secretary and one Special Assistant to the Assistant Secretary, Energy and Minerals, because they are confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: November 15, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Theresa Winchell, Department of the Interior, 202–343–7764.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3312(a) (1) and (49) are revised as set out below:

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.*

(1) Six Confidential Assistants to the Secretary. * * *

(49) One Staff Assistant and one Special Assistant to the Assistant Secretary—Energy and Minerals.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21551 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of the Interior

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant (Minerals) to the Assistant Secretary—Energy and Minerals, Department of the Interior, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: September 24, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Theresa Winchell, Department of the Interior, 202–343–7764.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3312(a)(4) is added as set out below:

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* * * *

(4) One Special Assistant (Minerals) to the Assistant Secretary—Energy and Minerals.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21552 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of the Interior

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Assistant Secretary for Fish, Wildlife, and Parks, Department of the Interior, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: January 11, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Theresa Winchell, Department of the Interior, 202–343–7764.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3312(a)(5) is revised as set out below:

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* * * *

(5) Seven Special Assistants to the Assistant Secretary for Fish and Wildlife and Parks and one Confidential Assistant (Administrative Assistant) to each of three Assistant Secretaries for Energy and Minerals, Land and Water Resources, Fish and Wildlife and Parks.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21553 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of the Interior

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Assistant Secretary for Indian Affairs, Department of the Interior, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: October 1, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Theresa Winchell, Department of the Interior, 202–343–7764.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3312(a)(51) is revised as set out below:

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* * * *

(51) Two Special Assistants to the Assistant Secretary for Indian Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21554 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of the Interior

AGENCY: Office of Personnel Managment.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Director for State Relations, Department of the Interior, because it is confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: September 20, 1979.

FOR FURTHER INFORMATION CONTACT:Q02

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Theresa Winchell, Department of the Interior, 202–343–7764.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3312(o)(4) is added as set out below:

§ 213.3312 Department of the Interior.

* * * * *

(o) *Office of Surface Mining, Reclamation and Enforcement.* * * *

(4) One Special Assistant to the Director for State Relations.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21555 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Agriculture

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of a position at the Department of Agriculture from Confidential Assistant to the Assistant Secretary for Conservation, Research and Education to Confidential Assistant to the Assistant Secretary for Natural Resources and Environment, Department of Agriculture to reflect the current title of the superior.

EFFECTIVE DATE: October 2, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Phyllis Mowery, Department of Agriculture, 202–447–7131.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3313(a)(11) is revised as set out below:

§ 213.3313 Department of Agriculture.

(a) *Office of the Secretary.* * * *

(11) One Confidential Assistant to the Assistant Secretary for Natural Resources and Environment.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21556 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Agriculture

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of a position at the Department of Agriculture from Private Secretary to the Deputy Under Secretary for Congressional and Public Affairs to Private Secretary to the Assistant Secretary for Governmental and Public Affairs to reflect the current title of the superior and an organizational transfer.

EFFECTIVE DATE: December 12, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Phyllis Mowrey, Department of Agriculture, 202–447–7131.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3313(c)(4) is revised as set out below:

§ 213.3313 Department of Agriculture.

* * * * *

(c) *Office of the Deputy Secretary.*

(4) One Private Secretary to the Assistant Secretary for Governmental and Public Affairs.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21557 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Agriculture

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Private Secretary to the Deputy General Counsel, Department of Agriculture, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: October 29, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Phyllis Mowrey, Department of Agriculture, 202–477–7131.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3313(d)(1) is added as set out below:

§ 213.3313 Department of Agriculture.

* * * * *

(d) *Office of the General Counsel.*

(1) One Private Secretary to the Deputy General Counsel.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21558 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Commerce

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Assistant Secretary for Administration, Department of Commerce, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: February 6, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Steve Roman, Department of Commerce, 202–377–5562.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3314(a)(12) is added as set out below:

§ 213.3314 Department of Commerce.

(a) *Office of the Secretary.* * * *

(12) One Special Assistant to the Assistant Secretary for Administration.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21559 Filed 7-17-80; 8:45 am]
BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Commerce

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of a position at the Department of Commerce from Confidential Assistant to the Director, Office of Minority Business Enterprise to Confidential Assistant to the Director, Minority Business Development Agency to reflect the change in the office title.

EFFECTIVE DATE: January 29, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Steve Roman, Department of Commerce, 202–377–5562.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3314(a)(17) is revised as set out below:

§ 213.3314 Department of Commerce.

(a) *Office of the Secretary.* * * *

(17) Two Confidential Assistants to the Director, Office of Minority Business Development Agency.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21560 Filed 7-17-80; 8:45 am]
BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Commerce

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Private Secretary to the Deputy Director, Minority Business Development Agency, Department of Commerce, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: January 11, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Bea Nelson, Department of Commerce, 202–377–3453.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3314(a)(30) is added as set out below:

§ 213.3314 Department of Commerce.

(a) *Office of the Secretary.* * * *

(30) Private Secretary to the Deputy Director, Minority Business Development Agency.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21561 Filed 7-17-80; 8:45 am]
BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Commerce

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Confidential Assistant to the Deputy Secretary, Department of Commerce, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: February 29, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Steve Roman, Department of Commerce, 202–377–5562.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3314(a)(31) is added as set out below:

§ 213.3314 Department of Commerce.

(a) *Office of the Secretary.*

* * * * *

(31) One Confidential Assistant to the Deputy Secretary.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21562 Filed 7-17-80; 8:45 am]
BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Commerce

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Chairperson of the Federal Regional Council, Department of Commerce, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: January 21, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Steve Roman, Department of Commerce, 202–377–3453.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3314(a)(38) is added as set out below:

§ 213.3314 Department of Commerce.

(a) *Office of the Secretary.* * * *

(38) One Special Assistant to the Chairperson, Federal Regional Council.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21566 Filed 7-17-80; 8:45 am]
BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Commerce

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Private Secretary to each of the following: Assistant Secretary for International Economic Policy; Assistant Secretary for Trade Development; and Assistant Secretary for International Trade, Department of Commerce, because they are

confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: February 26, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Steve Roman, Department of Commerce, 202–377–5562.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3314(m)(3) is added as set out below:

§ 213.3314 Department of Commerce.

* * * * *

(m) *Office of the Assistant Secretary for Industry and Trade.* * *

(3) One Private Secretary to each of the following: Assistant Secretary for International Economic Policy; Assistant Secretary for Trade Development; and Assistant Secretary for International Trade.

* * * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–21567 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; Department of Commerce

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Private Secretary to the Assistant Secretary for Trade Administration, Department of Commerce because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: February 26, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Steve Roman, Department of Commerce, 202–377–5562.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3314(m)(4) is added as set out below:

§ 213.3314 Department of Commerce.

* * * * *

(m) *Office of the Assistant Secretary for Industry and Trade* * * *

(4) One Private Secretary to the Assistant Secretary for Trade Administration.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–21568 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; Department of Commerce

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant for Cultural Resources to the Deputy Assistant Secretary, Office of the Assistant Secretary for Economic Development, Department of Commerce, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: December 7, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–377–3453.

On position content: Bea Nelson, Department of Commerce, 202–377–3453.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3314(q)(2) is added as set out below:

§ 213.3314 Department of Commerce.

* * * * *

(q) *Office of the Assistant Secretary for Economic Development.* * * *

(2) One Special Assistant for Cultural Resources to the Deputy Assistant Secretary.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–21569 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; Department of Commerce

AGENCY: Office of Personnel Managment.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C Director, Office of Policy Development and Coordination to the Deputy Assistant Secretary for Economic Development Policy, Department of Commerce, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: August 28, 1978.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Steve Roman, Department of Commerce, 202–377–5562.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3314(q)(3) is added as set out below:

§ 213.3314 Department of Commerce.

* * * * *

(q) *Office of the Assistant Secretary for Economic Development.* * * *

(3) Director, Office of Policy Development and Coordination to the Deputy Assistant Secretary for Policy and Planning.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–21570 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; Department of Commerce

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C two Special Executive Assistants to the Director of Recruiting for the Decennial Census, Bureau of the Census, Department of Commerce, because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: September 21, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Beatrice Nelson, Department of Commerce, 202–377–3453.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3314(v)(4) is added as set out below:

§ 213.3314 Department of Commerce.

* * * * *

(v) *Bureau of the Census.*

(4) Two Special Executive Assistants to the Director of Recruiting for the Decennial Census.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21571 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Labor

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C two Secretaries to the Secretary of the Department of Labor, because they are confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: January 23, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Joyce Goins, Department of Labor, 202–523–6555.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3315(a)(1) is revised as set out below:

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.*

(1) One Private Secretary, three Secretaries, seven Special Assistants, one Confidential Assistant, one Staff Assistant, and one Confidential Staff Assistant to the Secretary.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21572 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Labor

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: FR Document 79-35812, published November 20, 1979, at 44 FR 66570, incorrectly listed July 20, 1979, as the effective date of a Department of Labor Schedule C appointing authority in 5 CFR § 213.3315(a)(1). This document corrects the effective date; this is an editorial change only.

EFFECTIVE DATE: The correct effective date should read: July 10, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 80-21573 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Labor

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Executive Assistant, one Special Assistant and one Confidential Assistant to the Deputy Assistant Secretary, Employment and Training Administration, Department of Labor, because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: September 20, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Joyce Goins, Department of Labor, 202–523–6555.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3315(a)(4) is added as set out below:

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.*

(4) One Executive Assistant, one Special Assistant, and one Confidential Assistant to the Deputy Assistant Secretary, Employment and Training Administration.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21574 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Labor

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Staff Assistant to the Assistant Secretary for Policy, Evaluation, and Research, Department of Labor, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: December 7, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Joyce Goins, Department of Labor, 202–523–6555.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3315(a)(5) is added and (j) is revoked as set out below:

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.* * * *

(5) One Staff Assistant to the Assistant Secretary for Policy, Evaluation, and Research.

* * * * *

(j) *Office for Economic Policy Review* [Revoked].

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21575 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Labor

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C at the Department of Labor, one Special Assistant to the Under

Secretary and one Private Secretary to the Director, Women's Bureau, because they are confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: November 16, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Joyce Goins, Department of Labor, 202–523–6555.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3315 (a)(13) and (f)(2) are revised as set out below:

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.* * * *

(13) Three Special Assistants to the Under Secretary.

* * * * *

(f) *Women's Bureau.* * * *

(2) Four Special Assistants, one Secretary (Typing), one Private Secretary, two Executive Assistants, and one Confidential Assistant to the Director.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21576 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Labor

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of a position at the Department of Labor, from Private Secretary to the Deputy Inspector General to Secretary (Steno) to the Deputy Inspector General to more appropriately reflect the duties of the position.

EFFECTIVE DATE: December 10, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Joyce Goins, Department of Labor, 202–523–6555.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3315(c)(2) is revised as set out below:

§ 213.3315 Department of Labor.

* * * * *

(c) *Office of the Inspector General.*

* * *

(2) Secretary (Steno) to the Deputy Inspector General.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21577 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Health, Education and Welfare

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Deputy Assistant Secretary for Legislation (Welfare), Department of Health, Education, and Welfare, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: February 22, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Rita Reed, Department of Health, Education, and Welfare, 202–245–0131.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3316(f)(9) is revised as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(f) *Office of the Assistant Secretary for Legislation.*

(9) Three Special Assistants to the Deputy Assistant Secretary for Legislation (Welfare).

* * * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21578 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Health, Education, and Welfare

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of a position at the Department of Health, Education, and Welfare from Special Assistant for External Affairs, Social Security Administration to Special Assistant for External Affairs to the Associate Commissioner, Office of Government Affairs, Social Security Administration, to reflect an organizational transfer.

EFFECTIVE DATE: February 7, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Rita Reed, Department of Health, Education and Welfare, 202–245–0131.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3316(l)(2) is revised as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(l) *Social Security Administration.*

* * *

(2) Special Assistant for External Affairs to the Associate Commissioner, Office of Governmental Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21579 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Health, Education, and Welfare

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of a position at the Department of Health, Education and Welfare from Director for External Liaison, Office of Consumer Affairs, to Director for Consumer Organization, Office of Consumer Affairs, to more appropriately reflect the duties of the position.

EFFECTIVE DATE: October 5, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Rita Reed, Department of Health, Education and Welfare, 202–245–0131.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3316(m)(2) is revised as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(m) *Office of Consumer Affairs.* * * *

(2) Director for Consumer Organization.

(5 U.S.C. 3301, 3302; EO 10577 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21580 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Health, Education, and Welfare

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Director of Consumer Programs, Office of Consumer Affairs, Department of Health, Education, and Welfare, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: February 21, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Rita Reed, Department of Health, Education, and Welfare, 202–245–0131.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3316(m)(3) is added as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(m) *Office of Consumer Affairs.* * * *

(3) One Director of Consumer Programs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21581 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Health, Education, and Welfare

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Special Assistant to the President for Consumer Affairs, Department of Health, Education and Welfare, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: October 1, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Rita Reed, Department of Health, Education and Welfare, 202–245–0131.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3316(m)(5) is revised as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(m) *Office of Consumer Affairs.* * * *

(5) One Confidential Assistant, one Confidential Secretary and one Special Assistant to the Special Assistant to the President for Consumer Affairs.

(5 U.S.C. 3301, 3302; EO 10577 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21582 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Health, Education, and Welfare

AGENCY: Office of Personnel Management.

ACTION: Final rule

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Deputy Assistant Secretary, Office of the Assistant Secretary for Human Development, Department of Health, Education, and Welfare, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: January 11, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Rita Reed, Department of Health, Education, and Welfare, 202–245–0131.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3316(n)(1) is added as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(n) *Office of the Assistant Secretary for Human Development.* * * *

(1) One Special Assistant to the Deputy Assistant Secretary for Human Development Services.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21583 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Health, Education, and Welfare

AGENCY: Office of Personnel Management.

ACTION: Final rule

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Assistant for Human Development Services, Department of Health, Education, and Welfare, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: November 30, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Rita Reed, Department of Health, Education, and Welfare, 202–245–0131.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3316(n)(20) is revised as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(n) *Office of the Assistant Secretary for Human Development.* * *

(20) Two Special Assistants to the Assistant Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21584 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Health, Education, and Welfare

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Assistant to the General Counsel, Department of Health, Education, and Welfare, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: January 17, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Rita Reed, Department of Health, Education, and Welfare, 202–245–0131.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3316(p)(2) is added as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(p) *Office of the General Counsel.* * * *

(2) One Assistant to the General Counsel.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21585 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Health, Education, and Welfare

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the titles of certain positions at the Department of Health, Education, and Welfare, from Director, Office of Governmental Relations, Office of the Special Assistant to the Secretary for Civil Rights, and from Assistant to the Special Assistant to the Secretary for Civil Rights, to Two Special Assistants to the Special Assistant to the Secretary for Civil Rights to more appropriately reflect the duties of these positions.

EFFECTIVE DATE: October 11, 1979.

FOR FURTHER INFORMATION CONTACT

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Rita Reed, Department of Health, Education, and Welfare, 202–245–0131.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3316(q)(1) is revised and (q)(3) is revoked as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(q) *Office of the Special Assistant to the Secretary for Civil Rights.*

(1) Two Special Assistants to the Special Assistant.

* * * * *

(3) [Revoked].

(5 U.S.C. 3301, 3302; EO 10577 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21586 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Health, Education, and Welfare

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Confidential Secretary to the Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: December 4, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Rita Reed, Department of Health, Education, and Welfare, 202–245–8442.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213:3316(s)(5) is revised as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(s) *Health Care Financing Administration.* * * *

(5) One Confidential Assistant and one Confidential Secretary to the Administrator.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21587 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Health, Education and Welfare

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Confidential Assistant to the Deputy Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: November 16, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Rita Reed, Department of Health, Education, and Welfare, 202–245–8442.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3316(s)(7) is added as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(s) *Health Care Financing Administration.* * * *

(7) One Confidential Assistant to the Deputy Administrator.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21588 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Environmental Protection Agency

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Director, Office of Intergovernmental Relations, Office of the Administrator, Environmental Protection Agency, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: September 26, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Anne Maes, Environmental Protection Agency, 202–755–0270.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3318(a)(4) is added as set out below:

§ 213.3318 Environmental Protection Agency.

(a) *Office of the Administrator.*

(4) Director, Office of Intergovernmental Relations.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–21589 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; Environmental Protection Agency

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment (1) excepts from the competitive service under Schedule C one Special Assistant to the General Counsel, Environmental Protection Agency, because it is confidential in nature; and (2) revokes a Special Assistant to the Director, Office of Legislation, because there is no longer a need for this position. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: February 10, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Anne Maes, Environmental Protection Agency, 202–755–0270.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3318(b)(9) is revoked and (h) is added as set out below:

§ 213.3318 Environmental Protection Agency.

* * * * *

(b) *Office of Legislation.* * * *

(9) [Revoked].

* * * * *

(h) *Office of the General Counsel.* (1) One Special Assistant to the General Counsel.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–21590 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; International Communication Agency

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Associate Director for Educational and Cultural Affairs, International Communication Agency, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: January 11, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Pam McCall, International Communication Agency, 202–724–9013.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3328(e) is revised as set out below:

§ 213.3328 International Communication Agency.

* * * * *

(e) Two Special Assistants to the Associate Director for Educational and Cultural Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–21591 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; International Communication Agency

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Director of the International Communication Policy Staff, International Communications Agency, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: September 26, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: John Comeau, International Communication Agency, 202–724–9013.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3316(i) is added as set out below:

§ 213.3328 International Communication Agency.

* * * * *

(i) One Special Assistant to the Director of International Communication Policy Staff.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–21592 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; Securities and Exchange Commission

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C at the Securities and Exchange Commission, one Secretary (Steno) to each of the following: Director, Division of Corporation Finance; Director, Division of Investment Management; Director, Division of Enforcement; Director, Division of Market Regulation and one Secretary (Steno) to the Executive Director because they are confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: November 1, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Donald Krigbaum, Securities and Exchange Commission, 202–272–2514.

Office of Personnel Management.

Beverly M. Jones,

Issuance Systems Manager.

Accordingly, 5 CFR 213.3330 (a) is added and (k) is revised as set out below:

§ 213.3330 Securities and Exchange Commission.

(a) One Secretary (Steno) to the Executive Director.

* * * * *

(k) One Secretary (Typing) to the Director of Economic and Policy Research and one Secretary (Steno) to each of the following: Director, Division of Corporation Finance; Director, Division of Investment Management; Director, Division of Enforcement; and one Director, Division of Market Regulation.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–21593 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of Energy; Effective Date; Correction

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: FR Doc. 79–35802, published November 20, 1979, at 44 FR 66568, incorrectly listed August 17, 1979, as the effective date of a Department of Energy schedule C appointing authority in 5 CFR 213.3331(a)(3). This document corrects the effective date; this is an editorial change only.

EFFECTIVE DATE: The correct effective date should read: July 24, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 80–21594 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Staff Assistant to the Special Assistant to the Secretary, Department of Energy, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: October 1, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Joan Sawyer, Department of Energy, 202–252–8468.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3331(a)(4) is revised as set out below:

§ 213.3331 Department of Energy.

(a) *Office of the Secretary.* * * *

(4) One Confidential Assistant (Secretary) and one Staff Assistant to the Special Assistant to the Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–21595 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C two Staff Assistants to the Secretary, Department of Energy, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: December 17, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Joan Sawyer, Department of Energy, 202–252–8468.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3331(a)(7) is revised as set out below:

§ 213.3331 Department of Energy.

(a) *Office of the Secretary.* * * *

(7) Two Assistants and three Staff Assistants to the Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–21596 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Confidential Assistant (Secretary) to the Counselor to the Secretary, Department of Energy, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: January 11, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Joan DeLong, Department of Energy, 202–252–6468.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3331(a)(11) is added as set out below:

§ 213.3331 Department of Energy.

(a) *Office of the Secretary.* * * *

(11) One Confidential Assistant (Secretary) to the Counselor to the Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–21597 Filed 7–17–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under

Schedule C one Confidential Assistant (Secretary) to the Assistant to the Secretary, Department of Energy, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: February 2, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Joan DeLong, Department of Energy, 202–252–8468.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3331(a)(12) is added as set out below:

§ 213.3331 Department of Energy.

(a) *Office of the Secretary.* * * *

(12) One Confidential Assistant (Secretary) to the Assistant to the Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21598 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Confidential Assistant (Secretary) to the Chief Financial Officer, Office of the Under Secretary, Department of Energy, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: October 3, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Joan Sawyer, Department of Energy, 202–252–8468.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3331(a)(13) is added as set out below:

§ 213.3331 Department of Energy.

(a) *Office of the Secretary.* * * *

(13) One Confidential Assistant (Secretary) to the Chief Financial Officer, Office of the Under Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21599 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of a position at the Department of Energy, Federal Energy Regulatory Commission from Private Secretary to the Chairman to Secretary (Steno) to the Chairman to more appropriately reflect the duties of the position.

EFFECTIVE DATE: December 28, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Joan Sawyer, Department of Energy, 202–252–8468.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3331(c)(1) is revised as set out below:

§ 213.3331 Department of Energy.

* * * * *

(c) *Federal Energy Regulatory Commission.*

(1) One Confidential Secretary, one Private Secretary, one Secretary (Steno), and one Confidential Assistant to the Chairman.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21600 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Director, Office of Congressional Affairs, Federal Energy Regulatory Commission, Department of Energy, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: November 28, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Joan Sawyer, Department of Energy, 202–252–8468.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3331(c)(10) is revised as set out below:

§ 213.3331 Department of Energy.

* * * * *

(c) *Federal Energy Regulatory Commission.* * * *

(10) One Staff Assistant and one Special Assistant to the Director, Office of Congressional and Public Affairs.

(5 U.S.C. 3301, 3302; EO 10577 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21601 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C three positions at the Department of Energy, Federal Energy Regulatory Commission: Director, Division of Consumer Affairs; Director, Division of Congressional Liaison; and Director, Division of Public Information, because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: November 15, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Joan Sawyer, Department of Energy, 202–252–8468.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3331(c)(11), (12), and (13) are added as set out below:

§ 213.3331 Department of Energy.

* * * * *

(c) *Federal Energy Regulatory Commission.* * * *

(11) Director, Division of Consumer Affairs.
(12) Director, Division of Congressional Liaison.
(13) Director, Division of Public Information.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21602 Filed 7-17-80; 8:45 am]
BILLING CODE 6325-01-M.

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Confidential Assistant (Secretary) to the Assistant Secretary for Resource Applications, Department of Energy, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: October 24, 1979.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202–632–6000.
On position content: Joan Sawyer, Department of Energy, 202–252–8468.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3331(j)(1) is added as set out below:

§ 213.3331 Department of Energy.

* * * * *

(j) *Office of the Assistant Secretary for Resource Application*
(1) One Confidential Assistant (Secretary) to the Assistant Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21603 Filed 7-17-80; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C at the Department of Energy two Special Projects Liaison Specialist to the Director of the Special Projects Division, Office of Intergovernmental Affairs and one Executive Assistant to the Assistant Secretary for Policy and Evaluation because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: January 23, 1980.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202–632–6000.
On position content: Joan DeLong, Department of Energy, 202–252–8468.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3331(m)(3) is added and (o)(4) is revised as set out below:

§ 213.3331 Department of Energy.

* * * * *

(m) *Office of the Assistant Secretary for Intergovernmental and Institutional Relations.* * * *
(3) Two Special Projects Liasion Specialists.

* * * * *

(o) *Office of the Assistant Secretary for Policy and Evaluation.* * * *
(4) One Staff Assistant and one Executive Assistant to the Assistant Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21604 Filed 7-17-80; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of one Staff Assistant, Congressional Affairs, Office of the Assistant Secretary for Integovernmental and Institutional relations, to one Congressional Affairs Specialist, Office of the Assistant Secretary for Intergovernmental and Institutional Relations, Department of Energy, to more appropriately reflect the duties of the position.

EFFECTIVE DATE: October 18, 1979.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202–632–6000.
On position content: Joan Sawyer, Department of Energy, 202–252–8468.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3331(m)(6) is revised as set out below:

§ 213.3331 Department of Energy.

* * * * *

(m) *Office of the Assistant Secretary for Intergovernmental and Institutional Relations.* * * *

(6) Five Staff Assistants, Congressional Affairs, and one Congressional Affairs Specialist.

(5 U.S.C. 3301, 3302; EO 10577 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21605 Filed 7-17-80; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Confidential Assistant (Secretary) to the Assistant Secretary for Policy and Evaluation, Department of Energy, because it is confidential in nature. Appointments may be made without examination by the Office of Personnel Management.

EFFECTIVE DATE: October 24, 1979.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202–632–6000.
On position content: Joan Sawyer, Department of Energy, 202–252–8468.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3331(o)(1) is added as set out below:

§ 213.3331 Department of Energy.

* * * * *

(o) *Office of the Assistant Secretary for Policy and Evaluation.* * * *
(1) One Confidential Assistant (Secretary) to the Assistant Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21606 Filed 7-17-80; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of a position at the Department of Energy from Confidential Assistant (Secretary) to Deputy Assistant Secretary for Policy and Evaluation to Confidential Assistant (Secretary) to Principal Deputy Assistant Secretary for Policy and Evaluation to reflect a change in the superior's title.

EFFECTIVE DATE: February 25, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Joan DeLong, Department of Energy, 202–252–8468.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3331(o)(5) is revised as set out below:

§ 213.3331 Department of Energy.

* * * * * *

(o) *Office of the Assistant Secretary for Policy and Evaluation.* * * *

(5) One Confidential Assistant (Secretary) to the Principal Deputy Assistant Secretary for Policy and Evaluation.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21607 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Director, Office of Minority Economic Impact, Department of Energy, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: October 5, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position authority: Joan Sawyer, Department of Energy, 202–252–8468.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3331(u) is added as set out below:

§ 213.3331 Department of Energy.

* * * * * *

(u) *Office of Minority Economic Impact.*

(1) One Special Assistant to the Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21608 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Confidential Assistant (Secretary) to the Director, Office of Minority Impact, Department of Energy, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: October 2, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Joan Sawyer, Department of Energy, 202–252–8464.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3331(u)(2) is added as set out below:

§ 213.3331 Department of Energy.

* * * * * *

(u) *Office of Minority Economic Impact.* * * *

(2) One Confidential Assistant (Secretary) to the Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21609 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Confidential Assistant (Secretary) to the Assistant Secretary for Fossil Energy, Department of Energy, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: February 26, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Joan De Long, Department of Energy, 202–252–8468.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3331(v) is added as set out below:

§ 213.3331 Department of Energy.

* * * * * *

(v) *Office of the Assistant Secretary for Fossil Energy.*

(1) One Confidential Assistant (Secretary) to the Assistant Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21610 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Assistant Director, Office of Legislative Affairs, Department of Energy, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: February 13, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Joan De Long, Department of Energy, 202–252–8468.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3331(w) is added as set out below:

§ 213.3331 Department of Energy.

* * * * *

(w) *Office of Legislative Affairs*

(1) Assistant Director to the Assistant to the Secretary for Legislative Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21611 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one House Liaison Officer to the Assistant to the Secretary for Legislative Affairs, Department of Energy, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: February 19, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling Office of Personnel Management, 202–632–6000.

On position content: Bob Willyerd, Department of Energy, 202–252–8468.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manger.

Accordingly, 5 CFR 213.3331(w)(2) is added as set out below:

§ 213.3331 Department of Energy.

* * * * *

(w) *Office of Legislative Affairs.* * * *

(2) One House Liaison Officer to the Assistant to the Secretary for Legislative Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-21612 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 410

Training; Policies and Procedures

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: These regulations prescribe policies and procedures for determining whether employees will be trained in Government or non-Government facilities. The principal reason for the regulations is implicit in the language of Office of Management and Budget Circular No. A–76, "Policies for Acquiring Commercial or Industrial Products and Services Needed by the Government."

EFFECTIVE DATE: August 18, 1980.

FOR FURTHER INFORMATION CONTACT:

Attn: Mr. Miller, Office of Personnel Management, Training Policy Division TNG–WED, PO Box 7230, Washington, DC 20044 (202) 653–6171.

SUPPLEMENTARY INFORMATION: On January 11, 1980, the Office of Personnel Management published a notice (45 FR 2327) proposing to amend § 410.501 of Title 5, Code of Federal Regulations. Under that section of Title 5, an agency may contract for training only after the head of the agency has determined that adequate training is not reasonably available by, in, or through Government facilities. To make that determination, the proposed amendments authorize use of the cost comparison procedure in Circular No. A–76. However, the amendment requires the following modifications of the cost comparison procedure to comply with various restrictions in the training law (chapter 41 of title 5, United States Code) on the acquisition of training from non-Government facilities.

1. Notwithstanding section 9a(5) of the circular, agencies may not automatically turn to contractors for training programs that cost less than $100,000 annually. Instead, the Office of Personnel Management, with assistance from the Office of Management and Budget, will prescribe simplified cost comparison procedures for training activities under the $100,000 threshold.

2. No contract may be awarded under the circular's procedures which would casue the agency to invest more than 1 percent of its total staffyears of civilian employment during a fiscal year in the training programs of non-Government facilities. However, agencies may waive the limitation if cost comparison studies have demonstrated that training can be provided more effectively and efficiently by the private sector.

3. The Office of Personnel Management, after consultation with the Office of Federal Procurement Policy, Office of Management and Budget, may approve procedures other than those of the circular for making the determinations required by § 410.501 of Title 5, Code of Federal Regulations, if alternative procedures would improve the economy, validity or reliability of the determinations.

There were three comments on the proposed rules, one from the Department of Energy, one from the American Federation of Government Employees, and one from the National Council of Professional Services Firms.

The Department of Energy raised the possibility that the funds set aside in its direct allotments for training from external sources, such as interagency facilities, may be insufficient to permit a conversion from in-house performance to external performance. However, this is no inherent obstacle to implementation of the regulations. Section 4112 of title 5, United States Code, in effect permits agencies to deduct the expenses of training an employee, regardless of the source of training, from the appropriation for the organization in which the employee works. Hence, even though an agency has established a separate allotment for non-Government tranining and even though that allotment has been exhausted, the agency could continue training employees in non-Government facilities by absorbing the costs of the training in the allotments for the employees' respective programs.

The American Federation of Government Employees recommended three amendments to the proposed rules.

(a) "Agencies clearly establish that in-house training facilities are not available before attempting to contract out to a non-Government facility."

Section 410.501(a) clearly prohibits agencies from awarding contracts for training if adequate training is *reasonably* available from Government facilities.

(b) "OPM spell out the uses, impact, etc. of the OMB Circular No. A–76 on the use of facilities for training purposes. This circular may not be available at each and every Federal installation."

We intend to fully discuss the use, impact, etc. of the circular in a new Supplement to Federal Personnel Manual chapter 410 to be published in the future.

(c) "The criteria for seeking the use of non-Government training facilities be clearly identified."

Two criteria are clearly identified in § 410.501(a)—adequacy and reasonable availability. If "existing agency programs will not adequately meet the need, new programs cannot be established in time to meet the need, and reasonble inquiry has failed to disclose the availability of suitable and adequate programs elsewhere in the Government"—the Government may turn to a contractor for training. The Government may also turn to a

contractor if "the training programs of Government facilities would be more expensive, because of distance, time or other factors, than the training programs of non-Government facilities which are adequate to meet the need."

The National Council of Professional Services Firms had many complaints about the procedures of OMB Circular No. A–76. For instance, this organization contends that the $100,000 threshold in section 9a(5) of the circular is too low, that the 4 percent inflation rate in Chapter III, section H of the Cost Comparison Handbook (Supplement No. 1 to the circular) is too low, that the Cost Differentials in Chapter VI of the Handbook on new starts are too low to cover such factors as "the tendency toward grade creep," that there are no allowances for unemployment generated by a conversion from contract to in-house performance, that there apparently is no requirement to base overhead rates on actual experience when calculating the costs of in-house performance, and that there is no apparent requirement to note whether bids used for comparison include the assumption that a GSA supply is included in the contract. In our opinion, none of these contentions, in and of themselves, would justify departures from the circular's cost comparison procedures in determining whether training needs will be met by contractors or in-house facilities. However, they may justify modifications of the circular itself. We have therefore sent a copy of the letter from the National Council of Professional Services Firms to the Office of Federal Procurement Policy, Office of Management and Budget.

The National Council of Professional Services Firms had only one comment on the substance of the proposed regulations. In the opinion of the Council, "any training under the $100,000 threshold and within the 1 percent limitation should be contracted out once an agency head determines that adequate training is not reasonably available within the Government. We recommend that the proposed regulations make absolutely clear that even simplified cost comparisons are not required in all instances to make a finding that existing Government facilities are not available or adequate."

We take exception to this comment only to the extent that the simplified cost comparison procedure must serve as the means by which an agency head determines whether adequate training is reasonably available within the Government. However, it is true that even simplified cost comparisons will not be necessary for all training programs under the $100,000 threshold. For instance, just as "one-time activities of short duration" above the $100,000 threshold are exempt from full-fledged cost comparisons, so would "one-time activities of short duration" under the threshold be exempt from simplified cost comparisons. Our guidance to agencies in the Federal Personnel Manual on the proposed regulations will clearly define the instances in which simplified cost comparisons are necessary and the instances in which even simplified cost comparisons are not necessary to make the determinations required in all cases by § 410.501 of Title 5, Code of Federal Regulations.

None of the comments addressed provisions of the circular, other than section 9a(5), which exempt certain types of activities from cost comparisons. For example, section 5a(2) states, in effect, that cost comparisons are not necessary for "one-time activities of short duration associated with support of a particular project." Likewise, section 10e(2) states in part that "new requirements which would be suitable for award under a set-aside program should be satisfied by such a contract without a comparative cost analysis." In view of the fact that the circular itself states that its provisions apply to training only within the limitations of chapter 41 of title 5, United States Code, it should be evident that these provisions of the circular do not constitute a waiver of the determinations required by section 4118(b)(2) of title 5, United States Code, even if they would be construed as exempting agencies from the necessity of performing a cost comparison to make such a determination.

However, we have decided to make this conclusion explicit rather than implicit. Hence, we have revised § 410.501(b)(1) and § 410.501(b)(2). The express reference to section 9a(5) of the circular has been deleted. Instead, the final rules simply state that, despite any provision of the circular to the contrary, an agency may not acquire training from any source unless the head of the agency has first performed a cost comparison or otherwise made the determination required by section 4118(b)(2) of title 5.

This amendment to the final rules serves only to clarify passages in the notice of proposed rulemaking. It does not significantly alter the substance or intent of the proposed rules. For instance, the notice of proposed rulemaking stated, in part, that section 9a(5) of the circular "would allow agencies to contract for training without prior consideration of the adequacy or availability of in-house sources of training. However, prior consideration of in-house sources of training, existing or potential, is mandatory under section 4118(b)(2) of title 5." Section 410.501(b)(1), as amended, only restates this interpretation of the requirement in section 4118(b)(2) of title 5, United States Code, as extended in § 410.501(a) of the final rules. Moreover, the amendment has no effect on the statement in section 10e(2) of the circular which precludes cost comparisons of existing contracts under set aside programs. Nor does it affect the statement in section 10d(4) of the circular which waives cost comparisons when in-house performance is not feasible. In short, we have concluded that § 410.501(b)(1) of the final rules, as amended, does not differ materially in substance from the rules in the notice of proposed rulemaking and, in any event, is interpretative in character.

The Office of Personnel Management has determined that this is a significant regulation for the purposes of E.O. 12044.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

PART 410—TRAINING

Accordingly, 5 CFR Part 410 is amended as follows:

(1) Section 410.501 is revised to read as follows:

§ 410.501 Determining the source of training.

(a) The training of employees may be authorized only after the head of the agency concerned has determined whether adequate training is reasonably available from Government facilities. If adequate training is reasonably available from Government facilities, the agency shall train the employees by, in, or through Government facilities. If adequate training is not reasonably available from Government facilities, the agency shall train the employees by, in, or through non-Government facilities. The head of an agency will determine that adequate training is not reasonably available within the Government when either of the following conditions is met:

(1) Existing agency programs will not adequately meet the need, new programs cannot be established in time to meet the need, and reasonable inquiry has failed to disclose the availability of suitable and adequate programs elsewhere in the Government; or

(2) The training programs of Government facilities would be more expensive, because of the costs of distance, time, or other factors, than the training programs of non-Government facilities which are adequate to meet the need.

(b) In making the determinations required by paragraph (a) of this section, the head of the agency may follow the procedures of the Office of Management and Budget Circular No. A-76, Revised (March 29, 1979) "Policies for Acquiring Commercial or Industrial Products Needed by the Government." However, the provisions of the circular shall be modified as follows to comply with the limitations in this part on training by, in, or through non-Government facilities.

(1) Despite any provision of the circular to the contrary, an agency may not acquire training from Government or non-Government facilities unless the head of the agency has first performed a cost comparison or otherwise made the determination required by paragraph (a) of this section.

(2) In lieu of the circular's provisions for activities under the $100,000 threshold, the Office of Personnel Management shall prescribe, as part of the Federal Personnel Manual, simplified procedures for cost comparison studies of training facilities, existing and planned, whose annual operating costs are less than $100,000. These simplified procedures for cost comparisons shall be consistent with cost accounting principles represented in the circular.

(3) No contract may be awarded for training under this section which would cause the agency to exceed the limitation in section 4106(a)(1) of title 5, United States Code, unless the head of the agency has waived that limitation under § 410.506(a) of this part.

(4) After consultation with the Office of Federal Procurement Policy, Office of Management and Budget, the Office of Personnel Management may approve procedures other than those of the circular for making the determinations required by paragraph (a) of this section, if alternative procedures are likely to improve the economy, validity or reliability of those determinations.

* * * * *

(2) Section 410.503 paragraph (e) is added to read as follows:

§ 410.503 General prohibitions, training through non-Government facilities.

* * * * *

(e) An agency may authorize the training of an employee through a non-Government facility only after the head of the agency concerned determines that appropriate consideration has been given to the then existing or reasonably foreseeable availability and utilization of fully trained employees.

(3) Paragraphs (a), (b), (c), and (d) of § 410.506 are redesignated as paragraphs (b), (c), (d), and (e) respectively of § 410.506, and a new paragraph (a) is added to read as follows:

§ 410.506 Wavier of limitations on training of employees through non-Government facilities.

(a) The head of an agency may waive the limitation in section 4106(a)(1) of title 5, United States Code, if cost comparison studies under § 410.501 of this part demonstrate that such a waiver is in the public interest because the training available from non-Government facilities is as effective as, and less costly than, training available from Government facilities.

* * * * *

(5 U.S.C 4101 *et seq*)

[FR Doc. 80-21686 Filed 7-17-80; 8:45 am]
BILLING CODE 6325-01-M

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5 CFR Part 890

Federal Employees Health Benefits Program; Benefits for Medically Underserved Areas

AGENCY: Office of Personnel Management.

ACTION: Final rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is adopting, as final regulations, the interim regulations which appeared in the Federal Register on February 26, 1980, pertaining to benefits under the Federal Employees Health Benefits (FEHB) Program for individuals in medically underserved areas. These regulations are necessary to implement the FEHB law, as amended, which mandates special consideration for enrollees of certain FEHB plans who receive covered health services in States with critical shortages of primary care physicians.

EFFECTIVE DATE: August 18, 1980.

FOR FURTHER INFORMATION CONTACT: Mrs. Lauretta Hall, Compensation Group, Office of Pay and Benefits Policy (202-632-4684).

SUPPLEMENTARY INFORMATION: On February 26, 1980, the Office of Personnel Management published in the Federal Register (45 FR 12375) a new Subpart G under 5 CFR, Part 890, as interim regulations with a 60-day period for comments from interested parties before publication of final regulations. Subpart G pertains to administration of 5 U.S.C. 8902(m)(2), as added to the Federal Employees Health Benefits (FEHB) law by Pub. L. 95-368, approved September 17, 1978, and amended by Pub. L. 96-179, approved January 2, 1980. Effective for a 5-year period beginning January 1, 1980, this provision requires FEHB plans (except comprehensive prepayment medical plans), whose contracts specify payment or reimbursement for care or treatment of a particular health condition, to provide benefits up to the limits of their contract in return for services rendered by any medical practitioner who is properly licensed to render the health service in question, when such service is provided to a plan enrollee "in a State where 25 percent or more of the population is located in primary medical care manpower shortage areas designated pursuant to section 332 of the Public Health Service Act."

OPM received a total of five comments on the interim regulations during the 60-day comment period which expired on April 28, 1980. Four comments where entirely favorable. A fifth response referred to an earlier version of proposed regulations, published June 5, 1979 (44 FR 32223), prior to the enactment of Pub. L. 96-179. Those earlier proposed regulations specified that an FEHB enrollee would have had to have been a resident of, as well as receive treatment in, a medically underserved area in order to receive consideration under 5 U.S.C. 8902(m)(2). The commenter suggested that that interpretation of 5 U.S.C. 8902(m)(2) be restated in the final regulations.

OPM is unable to adopt this suggestion in view of the present statutory language. As originally enacted by Pub. L. 95-368, subsection 8902(m)(2) related to a "service [which] is provided to an individual covered by [a] contract who is a member of a medically underserved population within the meaning of section 1302(7) of the Public Health Service Act." OPM interpreted "member of a medically underserved population" to mean a resident of an area designated as medically underserved under the cited provision of the Public Health Service Act.

As amended by Pub. L. 96-179, however, subsection 8902(m)(2) mandates special consideration under certain FEHB plans when "service is provided to an individual covered by [a] contract in a State" that is medically underserved. The amendment was intended to simplify administration of the provision by making it applicable on a statewide basis to services provided in a limited number of States, rather than in medically underserved areas in every

state. The current statutory language grants all FEHB enrollees the same access to health care services in designated medically underserved States, regardless of their personal connection with the area. The interim regulations, therefore, are being adopted as final regulations. For the convenience of the user, the text is reprinted below.

OPM has determined that this is a significant regulation for purposes of E.O. 12044.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management adopts 5 CFR, Part 890, Subpart G, which reads as follows:

Subpart G—Benefits in Medically Underserved Areas

Sec.

890.701 Definitions.

890.702 Payment to any licensed practitioner.

Authority: 5 U.S.C. 8913

Subpart G—Benefits in Medically Underserved Areas

§ 890.701 Definitions.

For purposes of this subpart—

"Health benefits plan" means the Government-wide Service Benefit Plan, the Government-wide Indemnity Benefit Plan, or an employee organization plan, as described under 5 U.S.C. 8903(1), (2), and (3), respectively.

"Medically underserved area" includes any of the 50 States of the United States where the Office of Personnel Management determines that 25 percent or more of the residents are located in primary medical care manpower shortage areas designated pursuant to section 332 of the Public Health Service Act (42 U.S.C. 254e). The Office has determined that the following States are "medically underserved areas" for purposes of this subpart: Alabama, Alaska, Mississippi, Missouri, Nevada, Oklahoma, South Carolina, South Dakota, West Virginia, and Wyoming.

§ 890.702 Payment to any licensed practitioner.

(a) Except as provided in paragraph (b) of this section, if a contract between the Office of Personnel Management and a group health insurance carrier offering a health benefits plan subject to this subpart provides for payment or reimbursement of the cost of health services for the care and treatment of a particular health condition only if such service is rendered by a certain category of practitioner, the plan must also provide benefits, up to the limits of it contract, for the same service when rendered and billed for by any other individual who is licensed under applicable State law to provide such service, if the service is provided to an enrollee of the plan in a medically underserved area as defined by this subpart.

(b) Paragraph (a) of this section only applies to health services provided before January 1, 1985, under contracts which become effective after December 31, 1979.

[FR Doc. 80-21887 Filed 7-17-80; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 273

[Amdt. No. 174]

1980 Food Stamp Amendments; Eligibility Limits

Correction

In FR Doc. 80-20343, in the issue of Tuesday, July 8, 1980, appearing at page 46036 please make the following correction:

On page 46041, the amendatory language under § 273.7, the first column, lines 10 and 11, now reading "8. Paragraph (f)(2), and paragraph (f)(i)(2)(vi) are deleted." should be corrected to read "8. Paragraph (f)(2), and paragraph (i)(2)(vi) are deleted."

BILLING CODE 1505-01-M

Animal and Plant Health Inspection Service

7 CFR Part 371

Organization, Functions and Delegations of Authority; Deputy Administrator of Plant Protection and Quarantine

AGENCY: Animal and Plant Health Inspection Service.

ACTION: Final rule.

SUMMARY: This document revises the statement of functions for the Deputy Administrator of Plant Protection and Quarantine to add responsibility for the obligations imposed on the United States by the International Plant Protection Convention.

EFFECTIVE DATE: July 18, 1980.

FOR FURTHER INFORMATION CONTACT: John C. Frey, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, DC 20250 (202-447-5335).

SUPPLEMENTAL INFORMATION: The International Plant Protection Convention signed at Rome, Italy, December 6, 1951, ratified by the Senate of the United States, June 12, 1972, signed by the President on July 25, 1972, imposes certain obligations on the United States. It has been determined that the Secretary can exercise those provisions of the Convention which impose obligations on the United States and are self-executing since they fall within related functions of the Department of Agriculture. The Secretary has delegated his responsibility under the Convention to the Assistant Secretary for Marketing and Transportation Services who in turn has delegated them to the Administrator, Animal and Plant Health Inspection Service (45 FR 43365). This document delegates the obligations of the United States under the International Plant Protection Convention to the Deputy Administrator, Plant Protection and Quarantine (e.g., the Federal Plant Pest Act and the Plant Quarantine Act, as amended 7 U.S.C. 150aa–150jj, and 7 U.S.C. 151–167, respectively). This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been determined to be exempt from those requirements. Mr. James O. Lee, Jr., Acting Administrator, made this determination because this action only affects the assignment of functions within APHIS and therefore, is entirely a matter of agency management.

Since this rule relates only to internal agency management, and it is found upon good cause pursuant to 5 U.S.C. 553 that notice and other public procedures with respect thereto are impractical and contrary to the public interest, good cause is found for making this rule effective less than 30 days after publication in the Federal Register.

Accordingly, 7 CFR 371 is amended as follows:

1. Section 371.2 is amended by revising paragraph (c), (2), to read as follows:

§ 371.2 The Office of the Administrator.

* * * * *

(c) * * *

(2) Planning, providing leadership, formulating, and coordinating policies, developing and issuing regulations (including quarantines) pursuant to law, and directing the administration of PPQ programs and activities. These programs and activities including Sec. 102 of the Organic Act of 1944, as amended, Act of April 6, 1937, as amended, the Mexican Border, Golden Nematode, Federal Plant Pest, Plant Quarantine, Terminal Inspection, Honey Bee, Federal Noxious

Weed, and Endangered Species Acts, Executive Order 11987, the responsibilities of the United States under the International Plant Protection Convention, and other related programs and activities.

(5 U.S.C. 301)

Issued at Washington, D.C. this 9th day of July, 1980.

James O. Lee, Jr.,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 80-21090 Filed 7-17-80; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 260, Amdt. 1; Lemon Reg. 261]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period July 20–26, 1980, and increases the quantity of such lemons that may be so shipped during the period July 13–19, 1980. Such action is needed to provide for orderly marketing of fresh lemons for the period specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective July 20, 1980, and the amendment is effective for the period July 13–19, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 31, 1979. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on July 15, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is active.

It it further found that there is insufficient time between the date when information became available upon which this regulation and amendment are based and when the actions must be taken to warrant a 60 day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

1. Section 910.561 is added as follows:

§ 910.561 Lemon Regulation 261.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period July 20, 1980, through July 26, 1980, is established at 290,000 cartons.

(b) As used in this section, "handled" and "cartons" mean the same as defined in the marketing order.

2. Paragraph (a) of § 910.560 Lemon Regulation 260 (45 FR 46786) is amended to read as follows:

§ 910.560 Lemon Regulation 260.

(a) The quantity of lemon grown in California and Arizona which may be handled during the period July 13, 1980, through July 19, 1980 is established at 290,000 cartons.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: July 16, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-21879 Filed 7-17-80 11:39 am]

7 CFR Part 923

[Cherry Regulation 19, Amendment 1]

Sweet Cherries Grown in Designated Counties in Washington; Grade, Size, Container, and Pack Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment continues through June 30, 1981, the current minimum grade, size, container, and pack requirements on the handling of sweet cherries, other than Rainier, Royal Anne, and other light sweet cherries, grown in designated counties in the State of Washington. This action is necessary to promote orderly marketing of suitable quality and sizes of fresh Washington cherries in the interest of producers and consumers.

EFFECTIVE DATES: July 22, 1980, through June 30, 1981.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The final impact statement relative to this final rule is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures in Secretary's Memorandum 1955 to implement Executive Order 12044 and classified as "not significant." This amendment is issued under the marketing agreement and Order No. 923 (7 CFR Part 923), regulating the handling of sweet cherries grown in designated counties in Washington. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Washington Cherry Marketing Committee and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

Cherry Regulation 19 (§ 923.319; 45 FR 38034), during the period June 9, 1980, through July 21, 1980, sets minimum grade, size, container, and pack requirements on the handling of sweet cherries, other than Rainer, Royal Anne, and other light sweet cherries, grown in designated counties in Washington. This amendment continues these requirements through June 30, 1981. The amendment is based upon an appraisal of the current and prospective market conditions for Washington sweet cherries. The committee estimates that 43,000 tons of sweet cherries will be available for fresh shipment during the

1980 season compared to actual shipment of 44,337 tons last season.

Under the regulation, shipments of cherries, except those of the Rainier, Royal Anne and similar varieties commonly referred to as "light sweet cherries", are required to grade Washington No. 1, except for a small increase in the tolerance for defects. The cherries are also required to be 48/64 inch in diameter or larger in all containers, except for those in face-packed containers, 20-pound containers or larger, or experimental containers, for which the minimum size is 54/64 inch. The container requirements specify the minimum amount of cherries, by weight, required in the various types of containers. The pack requirements establish minimum diameter requirements for cherries packed in containers marked with row count/row size or minimum diameter designations. Individual shipments of cherries up to 100 pounds sold for home use and not for resale are exempted from the grade, size, container, and pack requirements, if certain conditions are met to prevent their movement into commercial markets.

The grade and size requirements are necessary to prevent the shipment of Washington cherries of a lower grade or smaller size than specified and are designed to provide ample supplies of good quality fruit in the interest of producers and consumers. The container and pack requirements are designed to prevent deceptive packaging practices and to promote buyer confidence.

Notice of the proposed amendment was published in the June 25, 1980, issue of the Federal Register (45 FR 42625). No comments were received during the period provided in the notice for interested persons to submit written comments. It is found that the regulation of shipments of cherries, as hereafter provided, will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the Federal Register (5 U.S.C. 553) in that (1) notice of rulemaking concerning the regulation, with an effective date of July 22, 1980, was published in the Federal Register, and no objection to the regulation or effective date was received; (2) the recommendation for regulation was made at an open meeting at which interested persons could submit their views; (3) to maintain orderly marketing conditions, the regulation should be continued without interruption; and (4) the regulation will not require any special preparation by persons subject thereto which cannot be completed by the effective date.

Therefore, § 923.319 Cherry Regulation 19 (45 FR 38034) is amended to read as follows (§ 923.319 expires June 30, 1981, and will not be published in the annual Code of Federal Regulations):

§ 923.319 Cherry Regulation 19.

(a) *Grade and sizes.* During the period July 22, 1980, through June 30, 1981, no handler shall handle, except as otherwise provided in paragraphs (b), (c), and (d) of this section, any lot of cherries, except cherries of the Rainier, Royal Anne, and similar varieties commonly referred to as "light sweet cherries", unless such cherries meet each of the following applicable requirements:

(1) Washington No. 1 grade except that the following tolerances, by count, of the cherries in the lot shall apply in lieu of the tolerances for defects provided in the Washington State Standards for Grades of Sweet Cherries:

(i) A total of 10 percent for defects including in this amount not more than 5 percent, by count, of the cherries in the lot, for serious damage, and including in this latter amount not more than one percent, by count, of the cherries in the lot, for cherries affected by decay: *Provided,* That the contents of individual packages in the lot are not limited as to the percentage of defects but the total of the defects of the entire lot shall be within the tolerances specified.

(2) At least 95 percent, by count, of the cherries in the lot shall measure not less than $^{48}/_{64}$ inch in diameter, except as hereinafter provided in paragraph (b)(2)(ii) and subparagraph (3) of this paragraph.

(3) At least 90 percent, by count, of the cherries in any lot of face-packed containers or any containers of 20 pounds, net weight, or more shall measure not less than $^{54}/_{64}$ inch in diameter and not more than 5 percent, by count, of such cherries may be less than $^{48}/_{64}$ inch in diameter.

(b) *Containers.* During the period July 22, 1980, through June 30, 1981, no handler shall handle any lot of cherries, except cherries of the Rainier, Royal Anne, and similar varieties commonly referred to as "light sweet cherries", unless such cherries are in containers which meet each of the following applicable requirements:

(1) The net weight of the cherries in any container having a capacity greater than that of a container with inside dimensions of 15⅛ by 10½ by 4 inches shall not be less than 20 pounds; and all containers of cherries shall contain at least 12 pounds, net weight, of cherries.

(2) Subject to the provisions of subdivisions (i) and (ii) hereof, shipments of cherries may be handled in such experimental containers as have been approved by the Washington Cherry Marketing Committee.

(i) All shipments handled in such containers shall be under the supervision of the committee; and

(ii) At least 90 percent, by count, of the cherries in any lot of such containers shall measure not less than $^{54}/_{64}$ inch in diameter, and not more than 5 percent, by count, of such cherries may be less than $^{48}/_{64}$ inch in diameter.

(c) *Pack.* (1) When containers of cherries are marked with one of the row count/row size designations shown in Column 1 of the following table, at least 90 percent, by count, of the cherries in any lot shall be not smaller than the corresponding diameter shown in Column 2 of such table: *Provided,* That of the 10 percent smaller cherries permitted not more than 5 percent, by count, may be smaller than $^{54}/_{64}$ inch in diameter.

Table

Column 1 Row count/Row size	Column 2 diameter (inches)
9	$^{73}/_{64}$
10	$^{68}/_{64}$
11	$^{63}/_{64}$

(2) When containers of cherries are marked with a minimum diameter of $^{54}/_{64}$ inch, at least 90 percent, by count, of the cherries in any lot shall be not smaller than such minimum diameter: *Provided,* That of the 10 percent smaller cherries permitted not more than 5 percent, by count, may be smaller than $^{48}/_{64}$ inch in diameter.

(3) When containers of cherries are marked with a minimum diameter larger than $^{54}/_{64}$ inch, at least 90 percent, by count, of the cherries in any lot shall be not smaller than the diameter so marked: *Provided,* That of the 10 percent smaller cherries permitted, not more than 5 percent, by count, may be smaller than $^{54}/_{64}$ inch in diameter.

(d) *Exceptions.* Any individual shipment of cherries which meets each of the following requirements may be handled without regard to the provisions of paragraphs (a), (b), and (c) of this section, and of §§ 923.41 and 923.55 of this part:

(1) The shipment consists of cherries sold for home use and not for resale;

(2) The shipment does not, in the aggregate, exceed 100 pounds, net weight, of cherries; and

(3) Each container is stamped or marked with the words "not for resale" in letters at least one-half inch in height.

(e) *Definitions.* When used herein, "Washington No. 1" and "diameter" shall have the same meaning as when used in the Washington State Standards for Grades of Sweet Cherries (Order 1550 effective April 29, 1978, WAC 16-414-050); "face-packed" means that cherries in the top layer in any container are so placed that the stem ends are pointing downward toward the bottom of the container; "row count/row size" means the number of cherries of a uniform size necessary to pack row-faced across a 10½-inch inside width container or comparable number of cherries when packed loose in a container; and all other terms shall have the same meaning as when used in the amended marketing agreement and Order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: July 14, 1980.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-21491 Filed 7-17-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 930

Cherries Grown in Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia and Maryland; Expenses, Rate of Assessment, and Carryover of Unexpended Funds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action authorizes expenses and the rate of assessment for the 1980-81 fiscal period, to be collected from handlers to support activities of the Cherry Administrative Board which locally administers the Federal marketing order covering cherries grown in the eight designated states.

DATES: Effective May 1, 1980, through April 30, 1981.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975. The Final Impact Analysis relative to this final rule is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." This final rule is issued under marketing Order No. 930 (7 CFR Part 930), regulating the handling of cherries grown in eight designated states. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon recommendations and information submitted by the Cherry Administrative Board, and other available information. It is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

This action was recommended at a public meeting at which all present could state their views. There is insufficient time between the date when information became available upon which this final rule is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553). The order requires that the rate of assessment for a particular fiscal year shall apply to all assessable cherries handled from the beginning of such year which began May 1, 1980. To enable the Board to meet fiscal obligations which are now accruing, approval of the expenses and assessment rate is necessary without delay. It is necessary to effectuate the declared purposes of the act to make this provision effective as specified, and handlers have been apprised of such provision and of the effective time.

Therefore, a new § 930.210 is added to read as follows (this section is effective through April 30, 1981, and will not be published in the annual Code of Federal Regulations):

§ 930.210 Expenses, rate of assessment, and carryover of unexpended funds.

(a) Expenses that are reasonable and likely to be incurred by the Cherry Administrative Board during fiscal year May 1, 1980, through April 30, 1981, will amount to $110,500.

(b) The rate of assessment for said year payable by each handler in accordance with § 930.41 is fixed at $1.10 per ton of cherries.

(c) Unexpended funds in excess of expenses incurred during fiscal year ended April 30, 1980, shall be carried over as a reserve in accordance with § 930.42 of this part.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: July 15, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-21688 Filed 7-17-80; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1425

Cooperative Marketing Associations; Eligibility Requirements for Price Support, Amendment 5

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the regulations governing eligibility requirements which cooperative marketing associations must comply with in order to participate in authorized price support programs. The amendment clarifies the regulations, particularly as the regulations concern the eligibility of cooperative marketing associations to obtain price support with respect to commodities which are delivered to cooperative marketing associations by its members for marketing.

The clarification is necessary because of questions which have been raised regarding the impact of certain cooperative marketing methods upon the eligibility requirements of cooperative marketing associations to obtain price support.

EFFECTIVE DATE: Date of filing with the Director, Office of the Federal Register (July 17, 1980).

FOR FURTHER INFORMATION CONTACT: Charlie B. Robbins, ASCS, (202) 447-4634, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955, to implement Executive Order 12044, and has been determined to be exempt from these requirements. Ray V. Fitzgerald, Administrator, Agricultural Stabilization and Conservation Service, has made this determination in order to clarify the regulations and to simplify program management.

The need for this clarifying amendment was pointed out by an audit conducted by the Office of the Audit, USDA. The audit raised the question of the eligibility of cooperative marketing associations to obtain price support

under various Commodity Credit Corporation (CCC) programs with respect to commodities delivered to a cooperative by its producer-members under a uniform marketing agreement which in effect, permits an individual member to determine the price at which the cooperative may market the commodity. The present regulations (7 CFR 1425.12) governing cooperative marketing associations provide that in order for the cooperative to obtain price support, the cooperative must have authority from its individual members (1) to use the commodity delivered to it as collateral for a price support loan, (2) to give a lien on the commodity and (3) to sell such commodity. This amendment to the regulations makes it clear that a cooperative is eligible to obtain price support with regard to commodities delivered to it by its members if the cooperative, pursuant to a uniform marketing agreement, has the requisite vested authorities regarding the commodities as provided in 7 CFR 1425.12 even though the producer-member retains the right to determine in effect, the price at which the commodity may be marketed by the cooperative. Since the purpose of the regulations governing the eligibility of cooperatives to obtain price support on behalf of its individual members is to provide greater benefit and flexibility to such producer-members under the price support programs, it has been determined that this clarifying amendment is consistent with the purpose of these regulations.

Final Rule

Accordingly, the regulations at 7 CFR 1425.12 are amended to read as follows:

§ 1425.12 Vested authority.

The cooperative shall have authority to obtain a loan on the security of the commodity delivered to it by its members, to give a lien on such commodity, and to sell such commodity. A cooperative which markets a commodity for its members pursuant to a marketing agreement containing the authorities recited in this section shall be eligible to obtain price support for the commodity on behalf of its members even though the individual members retain the right in effect, to determine the price at which the commodity can be marketed by the cooperative.

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C., 714 b and c); secs. 101, 103, 105A 107A, 201, 301, 401, 63 Stat. 1051, as amended (7 US.C., 1441, 1444(f), 1444c, 1445b, 1446, 1447, 1421(a))

Signed at Washington, D.C., on July 11, 1980.

Ray Fitzgerald,
Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-21516 Filed 7-17-80; 8:45 am]

BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

9 CFR Part 82

Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry; Areas Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service (USDA).

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release a portion of Kane County in Illinois from the areas quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease no longer exists in the area quarantined.

EFFECTIVE DATE: July 10, 1980.

FOR FURTHER INFORMATION CONTACT: C. G. Mason, Chief, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, Federal Building, Room 751, Hyattsville, MD 20782, 301-436-8093.

SUPPLEMENTARY INFORMATION: This amendment excludes a portion of Kane County in Illinois from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded area.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respect.

In § 82.3, in paragraph (a)(1) relating to the State of Illinois the premises of George Kroesen, Zoological Enterprises, Inc., 35 North 11th Street, Kane County, St. Charles, Illinois is deleted.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141)

This amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the Federal Register.

Further, this final rule has not been designated as "significant" and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by E. C. Sharman, Acting Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for prior public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 10th day of July 1980.

J. K. Atwell,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-21202 Filed 7-17-80; 8:45 am]

BILLING CODE 3410-34-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Parts 1204 and 1261

Processing of Monetary Claims (General)

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This rule makes technical changes to the regulations on processing claims against or on behalf of the United States as represented by the National Aeronautics and Space Administration. Titles of officials are changed to reflect the current NASA organization, certain dollar amounts are increased to reflect current statutory and regulatory

authorities, citations are updated, and the regulations are revised in their entirety under a new Part 1261.

EFFECTIVE DATE: July 18, 1980.

ADDRESS: Office of General Counsel, Code GS-1, NASA Headquarters, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Richard J. Wieland or Sara Najjar, (202) 755-3920.

SUPPLEMENTARY INFORMATION: 14 CFR, Chapter V, Subparts 1204.2, 1204.3, 1204.7, and 1204.9, are revoked and a new 14 CFR, Chapter V, Part 1261, Subparts 1261.1, 1261.2, 1261.3, 1261.4, 1261.5, and 1261.6 are set forth below. Since this action is administrative and editorial in nature, notice and public procedures are not required.

14 CFR Chapter V is amended as follows:

PART 1204—ADMINISTRATIVE AUTHORITY AND POLICY

Subparts 1204.2, 1204.3, 1204.7 and 1204.9—[Revoked]

1. Part 1204 is amended by revoking Subparts 1204.2, 1204.3, 1204.7 and 1204.9.

2. A new Part 1261 is added to read as follows:

PART 1261—PROCESSING OF MONETARY CLAIMS (GENERAL)

Subpart 1261.1—Employees's Personal Property Claims

Sec.
1261.100 Scope of subpart.
1261.101 Claimants.
1261.102 Maximum amount.
1261.103 Time limitations.
1261.104 Allowable claims.
1261.105 Unallowable claims.
1261.106 Submission of claims.
1261.107 Evidence in support of claim.
1261.108 Recovery from carriers, insurers, and other third parties.
1261.109 Computation of allowance.
1261.110 Settlement of claims.

Subpart 1261.2—[Reserved]

Subpart 1261.3—Claims Against NASA or its Employees for Damage to or Loss of Property or Personal Injury or Death—Accruing on or After January 18, 1967

Sec.
1261.300 Scope of subpart.
1261.301 Authority.
1261.302 Claim.
1261.303 Claimant.
1261.304 Place of filing claim.
1261.305 Form of claim.
1261.306 Evidence and information required.
1261.307 Time limitations.
1261.308 NASA officials authorized to act upon claims.
1261.309 Action under the Federal Tort Claims Act.
1261.310 Investigation of claims.
1261.311 Claims requiring Department of Justice approval or consultation.
1261.312 Action on approved claims.
1261.313 Required notification in the event of denial.
1261.314 [Reserved]
1261.315 Procedures for the handling of lawsuits against NASA employees arising within the scope of their office or employment.

Subpart 1261.4—Collection of Civil Claims of the United States Arising Out of the Activities of the National Aeronautics and Space Administration

Sec.
1261.400 Scope of subpart.
1261.401 Compliance with 4 CFR Parts 101–105.
1261.402 Delegation of authority.
1261.403 Consultation with appropriate officials; negotiation.
1261.404 Legal review.
1261.405 Services of the Inspector General.
1261.406 Execution of releases.
1261.407 Fraud, false claims, misrepresentation.

Subpart 1261.5—[Reserved]

Subpart 1261.6—[Reserved]

Subpart 1261.1—Employees' Personal Property Claims

Authority: 31 U.S.C. 240–243.

§ 1261.100 Scope of subpart.

This subpart prescribes regulations governing the settlement of claims against the National Aeronautics and Space Administration (NASA) for damage to, or loss of, personal property incident to service with NASA.

§ 1261.101 Claimants.

(a) A claim for damage to, or loss of, personal property incident to service with NASA may be made only by:

(1) An officer or employee of the National Aeronautics and Space Administration;

(2) A member of the uniformed services (Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey and Public Health Service) assigned to duty with or under the jurisdiction of NASA;

(3) The authorized agent or legal representative of a person named in paragraph (a) (1) or (2) of this section; or

(4) The survivors of a person named in paragraph (a) (1) or (2) of this section in the following order of precedence: Spouse; children, father or mother, or both; or brothers or sisters, or both. Claims by survivors may be allowed whether arising before, concurrently with, or after the decedent's death, if otherwise covered by this subpart.

(b) Employees of contractors with the United States and employees of nonappropriated fund activities are not included within the meaning of paragraph (a) (1) or (2) of this section.

(c) Claims may not be made by or for the benefit of a subrogee, assignee, conditional vendor, or other third party.

§ 1261.102 Maximum amount.

After October 18, 1974, the maximun amount that may be paid on any claim under the Military Personnel and Civilian Employees Claims Act of 1964, as amended (31 U.S.C. 240–243) is $15,000.00.

§ 1261.103 Time limitations.

(a) A claim may be allowed only if the claim is presented in writing within 2 years after it accrues. For the purposes of this subpart, a claim accrues at the time of the accident or incident causing the loss or damage, or at such time as the loss or damage is or should have been discovered by the claimant through the exercise of due diligence.

(b) If a claim accrues in time of war or if an armed conflict intervenes within 2 years after it accrues, and if good cause is shown, the claim may be presented not later than 2 years after that cause ceases to exist, or 2 years after the war or armed conflict is terminated, whichever is earlier. The dates of beginning and ending of such an armed conflict are the dates established by concurrent resolution of the Congress or by a determination of the President.

§ 1261.104 Allowable claims.

(a) A claim may be allowed only if:

(1) The damage or loss was not caused wholly or partly by the negligent or wrongful act of the claimant, the claimant's agent, private employee, or family member (the standard to be applied is that of reasonable care under the circumstances);

(2) The possession of the property lost or damaged and the quantity is determined to have been reasonable, useful, or proper under the circumstances; and

(3) The claim is substantiated by proper and convincing evidence.

(b) Claims which are otherwise allowable under this subpart shall not be disallowed solely because the property was not in the possession of the claimant at the time of the damage or loss, or solely because the claimant was not the legal owner of the property for which the claim is made. For example, borrowed property may be the subject of a claim.

(c) Subject to the conditions in paragraph (a) of this section and the other provisions of this subpart, any claim for damage to, or loss of, personal property incident to service with NASA may be considered and allowed. The

following are examples of the principal types of claims which may be allowed, but these examples are not exclusive and other types of claims may be allowed, unless excluded by § 1261.105.

(1) *Property loss or damage in quarters or other authorized places.* Claims may be allowed for damage to, or loss of, property arising from fire, flood, hurricane, other natural disaster, theft, or other unusual occurrence, while such property is located at:

(i) Quarters within the 50 States or the District of Columbia that were assigned to the claimant or provided by the United States;

(ii) Quarters outside the 50 States and the District of Columbia that were occupied by the claimant, whether or not they were assigned or provided by the United States, except when the claimant is a civilian employee who is a local inhabitant; or

(iii) Any warehouse, office working area, hospital, or other place authorized or apparently authorized for the reception or storage of property.

(2) *Transportation or travel losses.* Claims may be allowed for damage to, or loss of, property incident to transportation or storage pursuant to orders, or in connection with travel under orders, including property in the custody of a carrier, an agent or agency of the Government, or the claimant.

(3) *House trailers.* Claims may be allowed for damage to, or loss of, house trailers and their contents under the provisions of paragraph (c)(2) of this section.

(4) *Negligence of the Government.* Claims may be allowed for damage to, or loss of, property caused by the negligence or wrongful act or omission of any employee of the Government while acting within the scope of office or employment.

(5) *Enemy action or public service.* Claims may be allowed for damage to, or loss of, property as a direct consequence of:

(i) Enemy action or threat of action or combat, guerrilla, brigandage, or other belligerent activity, or unjust confiscation by a foreign power or its nationals;

(ii) Action by the claimant to quiet a civil disturbance or to alleviate a public disaster; or

(iii) Efforts by the claimant to save human life or Government property.

(6) *Property used for benefit of the Government.* Claims may be allowed for damage to, or loss of, property when used for the benefit of the Government at the request of, or with the knowledge and consent of, an authorized official.

(7) *Clothing and accessories.* Claims may be allowed for damage to, or loss of, clothing or accessories customarily worn on the person, such as eyeglasses, hearing aids or dentures.

§ 1261.105 Unallowable claims.

Claims are not allowable for the following:

(a) *Unassigned quarters in United States.* Claims may not be allowed for property loss or damage in quarters occupied by the claimant within the 50 States or the District of Columbia that were not assigned to claimant or provided in kind by the United States.

(b) *Money or currency.* Claims may not be allowed for loss of money or currency, except when lost incident to fire, flood, hurricane, other natural disaster, or by theft from quarters (as limited by paragraph (a)). Reimbursement for loss of money or currency is limited to an amount which is determined reasonable to have been in the claimant's possession at the time of the loss.

(c) *Government property.* Claims may not be allowed for property owned by the United States, except that for which the claimant is financially responsible to any agency of the Government other than NASA.

(d) *Business property.* Claims may not be allowed for property used in a private business enterprise.

(e) *Articles of extraordinary value.* Claims may not be allowed for valuable articles, such as cameras, watches, jewelry, furs; or other articles of extraordinary value, when shipped with household goods or as unaccompanied baggage (shipment includes storage). This prohibition does not apply to articles in the personal custody of the claimant or articles properly checked: Provided, That reasonable protection or security measures have been taken by claimant.

(f) *Unserviceable property.* Claims may not be allowed for worn-out unserviceable property.

(g) *Illegal possession.* Claims may not be allowed for property acquired, possessed, or transported in violation of law or in violation of applicable regulations or directives.

(h) *Estimate fees.* Claims may not include fees paid to obtain estimates or repair, except when it is clear that an estimate could not have been obtained without paying a fee.

(i) *Automobiles and other vehicles.* Claims may not be allowed for damage to, or loss of, automobiles and other vehicles unless:

(1) The vehicles were required to be used for official Government business (official Government business, as used here, does not include travel between quarters and place of duty, parking of vehicles incident to such travel, or use of vehicles for the convenience of the owner); or

(2) Shipment of motor vehicles to, from, or between overseas areas was being furnished or provided by the Government; or

(3) The damage or loss was caused by the negligent or wrongful act or omission of any employee of the Government acting within the scope of office or employment.

§ 1261.106 Submission of claims.

All claims shall be submitted in duplicate to the Administrator or designee on NASA Form 1204, "Employee's Claim for Damage to, or Loss of, Personal Property Incident to Service."

§ 1261.107 Evidence in support of claim.

(a) *General.* In addition to the information required on NASA Form 1204, and any other evidence required by the Administrator or designee, the claimant will furnish the following evidence when relevant:

(1) A corroborating statement from the claimant's supervisor or other person or persons having personal knowledge of the facts concerning the claim.

(2) A statement of any property recovered or replaced in kind.

(3) An itemized bill of repair for property which has been repaired, or one or more written estimates of the cost of repairs from competent persons if the property is repairable but has not been repaired.

(b) *Specific classes of claims.* Claims of the following types shall also be accompanied with specific and detailed evidence as indicated:

(1) *Theft, burglary, etc.* A statement describing in detail the location where the loss occurred and the facts and circumstances surrounding the loss, including supporting documentation, e.g., a police report.

(2) *Transportation losses.* A copy of orders authorizing the travel, transportation or shipment, or a certificate explaining the absence of such orders and stating their substance; all bills of lading and inventories of property shipped; and a statement indicating the condition of the property when turned over to the carrier and when received from the carrier.

§ 1261.108 Recovery from carriers, insurers, and other third parties.

(a) *General.* NASA is not an insurer and does not underwrite all personal property losses that an employee may sustain. Employees are encouraged to carry private insurance to the maximum extent practicable to avoid large losses

or losses which may not be recoverable from NASA. The procedures set forth in this section are designed to enable the claimant to obtain the maximum amount of compensation for personal property loss or damage. Failure of the claimant to comply with these procedures may reduce or preclude payment of the claim.

(b) *Demand on carrier, contractor, warehouse owner/operator, or insurer.* When it appears that property has been damaged or lost under circumstances in which a carrier, warehouse owner/operator, contractor or insurer may be responsible, the claimant shall make a written demand on such party, either before or after submitting a claim against NASA. The Administrator or designee, if requested, will assist in making demand on the third party. No such demand need be made if, in the opinion of the Administrator or designee, it would be impracticable or any recovery would be insignificant, or if circumstances preclude the claimant from making timely demand.

(c) *Action subsequent to demand.* A copy of the demand and of any related correspondence shall be submitted to the Administrator or designee. If the carrier, insurer, or other third party offers a settlement which is less than the amount of the demand, the claimant shall consult with the Administrator or designee before accepting the amount offered. The claimant shall also notify the Administrator or designee promptly of any other action by a third party, including settlement, partial settlement, or denial of liability.

(d) *Application of recovery.* When the amount recovered from a carrier, insurer, or other third party is greater than or equal to the claimant's total loss as determined under this subpart, no compensation is allowable under this subpart. When the amount recovered is less than such total loss, the allowable amount is determined by deducting the recovery from the amount of total loss subject to the maximum set forth in § 1261.102.

(e) *Transfer of rights.* The claimant shall assign to the United States, to the extent of any payment accepted on a claim, all rights, title, and interest in any claim he/she may have against any carrier, insurer, or other party arising out of the accident or incident on which the claim against the United States is based. The claimant shall also, upon request, furnish such evidence and other cooperation as may be required to enable the United States to enforce the claim. After payment on the claim by the United States, the claimant shall, upon receipt of any payment from a carrier, insurer, or other party, notify the Admininstrator or designee and pay the proceeds to the United States to the extent required under the provisions of paragraph (d).

§ 1261.109 Computation of allowance.

(a) The amount allowed for damage to or loss of any item of property may not exceed the cost of the item (either the price paid in cash or property, or the value at the time of acquisition if not acquired by purchase or exchange). There will be no allowance for replacement cost or for appreciation in the value of the property. Subject to these limitations, the amount allowable is either:

(1) The depreciated value, immediately prior to the loss or damage of property lost or damaged beyond economical repair, less any salvage value; or

(2) The reasonable cost of repairs, when property is economically repairable: Provided, That the cost of repairs does not exceed the amount allowable under paragraph (a)(1) of this section.

(b) Depreciation in value is determined by considering the type of article involved, its cost, its condition when damaged or lost, and the time elapsed between the date of acquisition and the date of damage or loss, with appropriate recognition of current replacement value.

(c) *Limitation on agent or attorney fees.* No more than 10 per centum of the amount paid in settlement of each individual claim submitted and settled shall be paid or delivered to or received by an agent or attorney on account of services rendered in connection with that claim, any contract to the contrary notwithstanding (31 U.S.C. 243).

§ 1261.110 Settlement of claims.

(a) *Settlement officials.* (1) Claims in the amount of $5,000 or more will be acted upon by the General Counsel. Claims less than $5,000 will be acted upon by the Chief Counsel of the NASA Field Installation where the employee was assigned at the time of the loss or damage or the Assistant General Counsel for Litigation for NASA Headquarters claims.

(2) Claims arising for $5,000 or more shall be investigated by the Chief Counsel or Assistant General Counsel for Litigation, as appropriate, and a report and recommendation thereon shall be forwarded to the General Counsel.

(b) *Action by settlement official.* (1) For each claim, the settlement official shall complete a report in duplicate on NASA Form 1204 and retain a claim file consisting of the original claim, the report, and any other relevant evidence or documents.

(2) When a claim is allowed in an amount acceptable to the claimant, the settlement official shall prepare a "Voucher for Payment of Employees' Personal Property Claims" (NASA Form 1220), have it properly executed by the claimant, and forward it with a copy of the approved claim (NASA Form 1204) to the appropriate NASA fiscal or financial management office for payment.

(3) When a claim is disallowed or is partially allowed in an amount unacceptable to the claimant, the settlement official shall notify the claimant in writing of the action taken and the reasons therefor. If not satisfied with the action taken, the claimant may, within 60 days after receipt of such notice, request reconsideration of the claim and may submit any new evidence that he/she feels to be pertinent to the claim. If such a claim has been disallowed at the field installation level, the claimant may request reconsideration by the field installation, or by the General Counsel, or both.

(c) *Final and conclusive.* The settlement of a claim under this subpart, whether by full or partial allowance or disallowance, is final and conclusive.

Subpart 1261.2—[Reserved]

Subpart 1261.3—Claims Against NASA or Its Employees for Damage to or Loss of Property or Personal Injury or Death—Accruing on or After January 18, 1967

Authority: 28 U.S.C. 2671–2680, 42 U.S.C. 2473(c)(13), and 28 CFR Part 14.

§ 1261.300 Scope of subpart.

This subpart sets forth the procedures for:

(a) The submission of, and action by NASA upon, claims against the United States arising out of the activities of NASA for damage to or loss of property or personal injury or death, and designates the NASA officials authorized to act upon such claims.

(b) The handling of lawsuits against NASA employee(s) for damage to or loss of property or personal injury or death resulting from a NASA employee's activities within the scope of his/her office or employment.

§ 1261.301 Authority

(a) Under the provisions of the Federal Tort Claims Act, as amended (see 28 U.S.C. 2671–2680), and subject to its limitations, the Administrator or designee is authorized to consider, ascertain, adjust, determine,

compromise, and settle any claim for money damages against the United States for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any NASA employee while acting within the scope of his/her office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. In exercising such authority, the Administrator or designee is required to act in accordance with regulations prescribed by the Attorney General (28 CFR Part 14). An award, compromise, or settlement in excess of $25,000 may be effected only with the prior written approval of the Attorney General or designee.

(b) Under Sec. 203(c)(13)(A) of the National Aeronautics and Space Act of 1958, as amended, 42 U.S.C. 2473(c)(13)(A), NASA is authorized to consider, ascertain, adjust, determine, settle, and pay, on behalf of the United States, in full satisfaction thereof, any claim for $25,000 or less against the United States for bodily injury, death or damage to or loss of real or personal property resulting from the conduct of NASA's functions as specified in 42 U.S.C. 2473(a). At the discretion of NASA, a claim may be settled and paid under this authority even though the United States could not be held legally liable to the claimant.

(c) Under 42 U.S.C. 2473(c)(13)(B), if NASA considers that a claim in excess of $25,000 is meritorious and would otherwise be covered by 42 U.S.C. 2473(c)(13)(A), NASA may report the facts and circumstances of the claim to the Congress for its consideration or to the Comptroller General as provided in the "Supplemental Appropriations Act, 1978," Pub. L. 95-240 (92 Stat. 107), 31 U.S.C. 724a.

(d) Under 28 U.S.C. 2679, the Attorney General of the United States shall defend any civil action or proceeding brought in any court against a Government employee for injury or loss of property or personal injury or death, resulting from the operation of a motor vehicle by the Government employee while acting within the scope of office or employment. In effect, this legislation is designed to protect an employee driving a motor vehicle on Government business by converting such a civil court action or proceeding against the employee into a claim against the United States: Provided, That the employee was acting within the scope of employment at the time of the accident. The remedy against the United States provided by 28 U.S.C. 2672 (administrative adjustment of claims) and 28 U.S.C. 1346(b) (civil action against the United States) then becomes the plaintiff's exclusive remedy.

§ 1261.302 Claim.

Unless the context otherwise requires, "claim" means a claim for money damages against the United States arising out of the activities of NASA, for injury or loss of property, or personal injury or death. A claim "arises" at the place where the injury, loss, or death occurs.

§ 1261.303 Claimant.

(a) A claim for damage to or loss of property may be presented by the owner of the property, duly authorized agent or legal representative.

(b) A claim for personal injury may be presented by the injured person, duly authorized agent, or legal representative.

(c) A claim based on death may be presented by the executor(rix) or administrator(rix) of the decedent's estate, or by any other person legally entitled to assert such a claim in accordance with applicable State law.

(d) A claim for loss wholly compensated by an insurer with the rights of a subrogee may be presented by the insurer. A claim for loss partially compensated by an insurer with the rights of a subrogee may be presented by the parties individually as their respective interests appear, or jointly.

(e) A claim presented by an agent or legal representative shall be presented in the name of the claimant, be signed by the agent or legal representative, show the title or legal capacity of the person signing and be accompanied by evidence of the agent's or legal representative's authority to present a claim on behalf of the claimant as agent, executor(rix), administrator(rix), parent, guardian, or other representative.

§ 1261.304 Place of filing claim.

A claim arising in the United States should be submitted to the Chief Counsel of the NASA Installation whose activities are believed to have given rise to the claimed injury, loss, or death. If the identity of such installation is not known, or if the claim arose in a foreign country, the claim should be submitted to the General Counsel, National Aeronautics and Space Administration, Washington, DC 20546.

§ 1261.305 Form of claim.

(a) The official designated in § 1261.308 shall, prior to acting on a claim, require the claimant to submit a completed Standard Form 95—"Claim for Damage, Injury or Death."

(b) NASA installations will furnish copies of Standard Form 95 upon request.

§ 1261.306 Evidence and information required.

(a) The circumstances alleged to have given rise to the claim, and the amount claimed, should, so far as possible, be substantiated by competent evidence. Supporting statements, estimates, and the like should, if possible, be obtained from disinterested parties. For specific guidance as to Federal Tort Claims Act claims, see Department of Justice regulations on "Administrative Claims under Federal Tort Claims Act" at 28 CFR Part 14.

(b) In addition to the evidence and information required under paragraph (a), any claimant shall be required to submit information as to the amount of money or other property received as damages or compensation, or which the claimant may be entitled to receive, by reason of the claimed injury, loss, or death from persons other than NASA or NASA employees. (Such persons include, but are not limited to, insurers, employers, and persons whose conduct was a cause of the accident or incident.)

(c) Any document in other than the English language should be accompanied by an English translation.

§ 1261.307 Time limitations.

(a) A claim may not be acted upon pursuant to the Federal Tort Claims Act unless it is presented to NASA within 2 years after it accrued.

(b) A claim may not be acted upon pursuant to 42 U.S.C. 2473(c)(13) (A) or (B) unless it is presented to NASA within 2 years after the occurrence of the accident or incident out of which the claim arose.

(c) A claim shall be deemed to have been presented to NASA when NASA receives from a claimant or duly authorized agent or legal representative an executed Standard Form 95 or other written notification of an incident or accident, accompanied by a claim in a sum certain.

§ 1261.308 NASA officials authorized to act upon claims.

(a) Claims in the amount of $10,000 or more will be acted upon as directed by the General Counsel;

(b) Claims less than $10,000 will be acted upon by the Chief Counsel of the NASA Field Installation where the employee was assigned at the time of the loss or damage or the Assistant General Counsel for Litigation for NASA Headquarters claims.

(c) Claims of $10,000 or more, pursuant either to the Federal Tort Claims Act, or 42 U.S.C. 2473(c)(13), shall be acted upon only with the prior approval of the General Counsel. Such claims shall be forwarded to the General Counsel for approval, if the Chief Counsel or the Assistant General Counsel for Litigation is of the opinion that the claim may be meritorious and otherwise suitable for settlement under any authority. A claim so forwarded should be accompanied by a report of the facts of the claim, based upon such investigation as may be appropriate, and a recommendation as to the action to be taken.

(d) Claims acted upon by NASA officials pursuant to this section shall be acted upon pursuant to the Federal Tort Claims Act, or 42 U.S.C. 2473(c)(13) (A) or (B), as the NASA official deems appropriate.

§ 1261.309 Action under the Federal Tort Claims Act.

Where a claim is to be acted upon pursuant to the Federal Tort Claims Act, action shall be taken in accordance with 28 U.S.C. 2672, other provisions of the Federal Tort Claims Act as may be applicable (e.g., 28 U.S.C. 2680), and regulations prescribed by the Attorney General which appear at 28 CFR Part 14.

§ 1261.310 Investigation of claims.

The officials designated in § 1261.308 shall conduct such investigation of a claim as deemed appropriate. The officials may request any NASA office or other Federal agency to assist in the investigation.

§ 1261.311 Claims requiring Department of Justice approval or consultation.

(a) When in the opinion of the NASA official designated in § 1261.308, Department of Justice approval or consultation may be required, pursuant to 28 CFR Part 14, in connection with a claim being acted upon under the Federal Tort Claims Act, the following papers shall be forwarded to the General Counsel:

(1) A short and concise statement of the facts of the claim.

(2) Copies of all relevant portions of the claim file.

(3) A statement of the recommendations or views of the forwarding official.

(b) A claim forwarded to the General Counsel in accordance with paragraph (a) of this section, or upon which the General Counsel is acting pursuant to § 1261.308(c), shall be referred to the Department of Justice when, in the opinion of the General Counsel, Department of Justice approval or consultation is required or may be appropriate.

§ 1261.312 Action on approved claims.

(a) Upon settlement of a claim, the official designated in § 1261.308 will prepare and have executed by the claimant a Voucher for Payment of Tort Claims (NASA Form 616) if the claim has been acted upon pursuant to 42 U.S.C. 2473(c)(13), or a Voucher for Payment under Federal Tort Claims Act (Standard Form 1145) if the claim has been acted upon pursuant to the Federal Tort Claims Act. The form will then be referred to the cognizant NASA installation fiscal or financial management office for appropriate action.

(b) When a claimant is represented by an attorney, both the claimant and attorney will be designated as "payees" on the voucher, and the check will be delivered to the attorney whose address shall appear on the voucher.

(c) Acceptance by the claimant, agent, or legal representative, of any award, compromise, or settlement made pursuant to this subpart shall be final and conclusive on the claimant, agent or legal representative and any other person on whose behalf or for whose benefit the claim has been presented, and shall constitute a complete release of any claim against the United States and against any employee of the Government whose act or omission gave rise to the claim, by reason of the same subject matter.

§ 1261.313 Required notification in the event of denial.

Final denial of a claim shall be in writing and shall be sent to the claimant, the attorney, or legal representative by certified or registered mail. The notification of final denial may include a statement of the reasons for the denial and shall include a statement that if the claimant is dissatisfied with NASA's action, the claimant may file suit in an appropriate U.S. District Court not later than 6 months after the date of mailing the notification.

§ 1261.314 [Reserved]

§ 1261.315 Procedures for the handling of lawsuits against NASA employees arising within the scope of their office or employment.

The following procedures shall be followed in the event that a civil action or proceeding is brought, in any court, against any employee of NASA (or against the estate) for injury or loss of property or personal injury or death, resulting from the NASA employee's activities while acting within the scope of office or employment:

(a) After being served with process or pleadings in such an action or proceeding, the employee (or the executor(rix) or administrator(rix) of the estate) shall immediately deliver all such process and pleadings or an attested true copy thereof, together with a fully detailed report of the circumstances of the accident giving rise to the court action or proceeding, to the following officials:

(1) The Assistant General Counsel for Litigation insofar as actions or proceedings against employees of NASA Headquarters are concerned; or

(2) The Chief Counsel of the NASA Installation at which the employee is employed, insofar as actions against other than NASA Headquarters employees are concerned.

(b) Upon receipt of such process and pleadings, the Assistant General Counsel for Litigation or the Chief Counsel of the NASA Installation receiving the same shall furnish to the U.S. Attorney for the district embracing the place where the action or proceeding is brought and, if appropriate, the Director, Torts Branch, Civil Division, Department of Justice, the following:

(1) Copies of all such process and pleadings in the action or proceeding promptly upon receipt thereof; and

(2) A report containing a statement of the circumstances of the incident giving rise to the action or proceeding, and all data bearing upon the question of whether the employee was acting within the scope of office or employment with NASA at the time of the incident, at the earliest possible date, or within such time as shall be fixed by the U.S. Attorney upon request.

(c) The Assistant General Counsel for Litigation or a Chief Counsel acting pursuant to paragraph (b) of this section shall submit the following documents to the General Counsel, who is hereby designated to receive such documents on behalf of the Administrator:

(1) Copies of all process and pleadings submitted to a U.S. Attorney in accordance with paragraph (b).

(2) In addition, where the action or proceeding is for damages in excess of $25,000, or where (in the opinion of the Chief Counsel) such action or proceeding involves a new precedent, a new point of law, or a question of policy, copies of reports and all other papers submitted to the U.S. Attorney.

Subpart 1261.4—Collection of Civil Claims of the United States Arising Out of the Activities of the National Aeronautics and Space Administration

Authority: 42 U.S.C. 2473(c)(1), 31 U.S.C. 951, and 4 CFR Parts 101–105.

§ 1261.400 Scope of subpart.

This subpart:

(a) Sets forth certain procedures relating to the collection, compromise, suspension or termination of collection action, and referral, of civil claims of the United States arising out of the activities of the National Aeronautics and Space Administration (NASA);

(b) Designates NASA officials authorized to effect such actions; and

(c) Requires compliance with the Federal Claims Collection Standards' joint General Accounting Office-Department of Justice regulations at 4 CFR Parts 101–105.

§ 1261.401 Compliance with 4 CFR Parts 101–105.

This subpart requires compliance with the "Joint Regulations Prescribing Standards for Administrative Collection, Compromise, Termination of Agency Collection Action, and Referral to the General Accounting Office, and to the Department of Justice for Litigation, of Civil Claims by the Government for Money or Property." (4 CFR Parts 101–105).

§ 1261.402 Delegation of authority.

(a) The following NASA officials are hereby delegated authority to take such action as is authorized by the provisions of this subpart and other applicable laws and regulations, including action to effect the collection, compromise, suspension or termination of collection action, and referral of claims:

(1) With respect to claims which arise out of the activities of a NASA field installation: The Director of that installation or a designee who reports directly to the Director. A copy of such designation, if any, by the Director of the installation shall be sent to the Director, Financial Management Division, NASA Headquarters.

(2) With respect to all other claims: The Director, Headquarters Administration Division or a designee who reports directly to the Director.

(b) For the purposes of this section, "claim" means a civil claim of the United States, arising from the activities of NASA, for such an amount, or for such specific property, as has been determined by a cognizant NASA official (e.g., the contracting officer or the NASA Board of Contract Appeals, as may be appropriate, in regard to a claim against a contractor arising under a contract; or the General Counsel, Deputy General Counsel, Assistant General Counsel for Litigation, or Chief Counsel, as appropriate, in regard to a claim arising from tortious injury to Government property).

§ 1261.403 Consultation with appropriate officials; negotiation.

The authority, pursuant to § 1261.402, to determine to forgo the collection of interest, to accept payment of a claim in installments, or, as to claims which do not exceed $20,000 exclusive of interest, to compromise a claim or to refrain from doing so, or to suspend or terminate collection action or to refrain from such action shall be exercised only after consultation with the following NASA officials or to their designees, who may be requested to negotiate the appropriate agreements or arrangements with the debtor:

(a) With respect to claims against contractors or grantees arising in connection with contracts or grants: The contracting officer.

(b) With respect to claims against commercial carriers for loss of or damage to in-transit NASA freight: The cognizant transportation officer, or the official who determined the amount of the claim, as appropriate.

(c) With respect to claims against employees of NASA incident to their employment: The personnel officer and the financial management officer of the installation concerned.

(d) With respect to all other claims: The Chief Counsel of the installation concerned; or, in the case of such claims arising out of the activities of NASA Headquarters, the Assistant General Counsel for Litigation.

§ 1261.404 Legal review.

The appropriate counsel's office shall review and concur in the following:

(a) All communications to and agreements with debtors relating to claims collection.

(b) All determinations to compromise a claim, or to suspend or terminate collection action.

(c) All referrals of claims, other than referrals to the Department of Justice pursuant to § 1261.407(a).

(d) All documents releasing debtors from liability to the United States.

(e) All other actions relating to the collection of a claim which in the opinion of the official designated in or pursuant to § 1261.402 may affect the rights of the United States.

§ 1261.405 Services of the Inspector General.

At the request of an official designated in or pursuant to § 1261.402, the Office of the Inspector General (including regional offices) will, where practicable, conduct such investigations as may assist in the collection, compromise, or referral of claims of the United States, including investigations to determine the location and financial resources of debtors.

§ 1261.406 Execution of releases.

Upon receipt of full payment of a claim, or the amount in compromise of a claim as determined pursuant to this subpart, the official designated in § 1261.402 will, upon demand by the debtor, prepare and execute, on behalf of the United States, an appropriate release, which shall include the provision that it shall be void if procured by fraud, misrepresentation, the presentation of a false claim, or mutual mistake of fact.

§ 1261.407 Fraud false claims, misrepresentation.

Any claim which, in the opinion of an official designated in or pursuant to § 1261.402 or § 1261.403, may indicate fraud, presentation of a false claim, or misrepresentation, on the part of the debtor or any other party having an interest in the claim, shall be referred by the designated official to the Inspector General (IG), NASA Headquarters, or to the nearest office of the NASA IG. After an investigation as may be appropriate, The IG shall:

(a) Refer the claim to the Department of Justice in accordance with the provisions of 4 CFR 101.3; or

(b) If it is found that there is no such indication of fraud, the presentation of a false claim, or misrepresentation, return the claim to the official from whom it was received.

Subpart 1261.5—[Reserved]

Subpart 1261.6—[Reserved]

Robert A. Frosch,

Administrator.

[FR Doc. 80-21485 Filed 7-17-80; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM79-21]

Order Rejecting Rehearing and Denying Reconsideration of Order No. 81; Regulations Implementing Alternative Fuel Price Ceilings on Incremental Pricing Under the Natural Gas Policy Act of 1978

Issued July 9, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order Rejecting Rehearing and Denying Reconsideration of Order No. 81.

SUMMARY: On May 7, 1980, the Federal Energy Regulatory Commission (Commission) adopted Order No. 81, a final rule subject to Congressional review, which provided that large industrial boiler fuel facilities subject to the incremental pricing program will continue to be surcharged only at the level of the high sulfur No. 6 fuel oil price through October 31, 1981 (45 FR 31300, May 13, 1980). An untimely petition for rehearing was filed by the National Consumer Law Center (NCLC). In addition, a motion to extend the time for filing a petition for rehearing was filed by NCLC. The Commission hereby denies the motion to extend the time for filing a petition for rehearing and rejects the petition for rehearing of Order No. 81. The late-filed petition is, however, treated as a request for reconsideration. After a discussion of the merits of the arguments raised by NCLC, the Commission herein denies the request for reconsideration of Order No. 81.

EFFECTIVE DATE: July 9, 1980.

FOR FURTHER INFORMATION CONTACT: Barbara K. Christin, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357-8446.

On May 7, 1980, the Federal Energy Regulatory Commission (Commission) issued Order No. 81, a final rule subject to Congressional review (45 FR 31300, May 13, 1980). That order provided in part that, if the order is not disapproved by either House of Congress, large industrial boiler fuel facilities subject to incremental pricing will continue to be surcharged only at the level of the high sulfur No. 6 fuel oil price through October 31, 1981.

A late petition for rehearing and a motion to extend the time for filing the petition for rehearing were filed by National Consumer Law Center (NCLC).

The exclusive method for review of Commission orders under the Natural Gas Policy Act of 1978 (NGPA) is set forth in section 506 of that statute. Section 506(a)(2) requires that a party must apply for rehearing of a Commission order within thirty days after the issuance of such order. Petitioner's late-filed application failed to meet the jurisdictional requirements of the statute.[1] Accordingly, the motion to extend the time for filing such petition is denied and the petition for rehearing is rejected. The Commission will, however, treat NCLC's petition for rehearing as a request for reconsideration and address the merits of the arguments contained therein.[2]

In the petition filed by NCLC, it was claimed that the Commission erred by promulgating Order No. 81 without notice and an opportunity for comment required by the Administrative Procedure Act (APA) (5 U.S.C. 551, *et. seq.*). The Commission rejects this argument.

Section 553(b)(B) of the APA provides that notice is not required when the agency "for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." The Commission made such a finding in Order No. 81. In that Order the Commission referred to the extensive record established both in this docket and the Phase II incremental pricing docket [3] with respect to the appropriate alternative fuel price ceiling to be used for purposes of incremental pricing. The Commission also stated that additional notice and opportunity for comment would serve no purpose and would result in needless delay and replication of an already developed and ample record. For these reasons, the Commission found good cause pursuant to section 553(b) of the APA to dispense with further notice and comment procedures.

Furthermore, the Commission felt it was important to transmit simultaneously to Congress for review Order No. 81 and the Phase II rule (Order No. 80). In this way, Congress would be apprised of the Commission's plans with respect to Phase I at the same time that Phase II was transmitted for review.

The second argument raised by NCLC was that it was denied the opportunity for "oral presentation of data, views, and arguments" required by section 502(b) of the NGPA. The Commission likewise rejects this argument. The petitioner was given ample opportunity to make an oral presentation on the issue of a high sulphur No. 6 alternative fuel price ceiling for incremental pricing. Public hearings in this docket were held on April 2, 1979, and June 18, 1979.[4] In addition, many commenters, including petitioner, who participated in the Phase II hearings held throughout the country in January 1980, addressed the use of a high sulphur No. 6 ceiling for the entire incremental pricing program, *i.e.*, both Phase I and Phase II.[5]

The three remaining issues raised in the petition filed by NCLC dealt with the Commission's authority under the NGPA to set the alternative fuel price ceiling at a price other than the price of No. 2 fuel oil. First, NCLC argued that the Commission may only reduce the alternative fuel price ceiling pursuant to section 204(e) of the NGPA.[6] Second, petitioner alleged that the Commission misused its section 206(d) exemptive authority [7] as a substitute for the

[1] Ecee, Inc. v. Federal Energy Regulatory Commission, 611 F.2d 554, 556 (5th Cir. 1980); Boston Gas Company v. Federal Energy Regulatory Commission, 575 F.2d 975, 977-980 (1st Cir. 1978).

[2] In considering this filing, the Commission does not waive its right to assert that NCLC is not entitled to seek judicial review of the Commission's order in this proceeding because it failed to apply timely for rehearing of Order No. 81. *See* Boston Gas Co. v. Federal Energy Regulatory Commission, 575, F.2d 975 (1st Cir. 1978).

[3] Docket No. RM80-10, *Rule Required Under Section 202 of the Natural Gas Policy Act of 1978.*

[4] In fact, petitioner made an oral presentation on this issue at the June 18 hearing.

[5] NCLC participated in the Phase II hearing held January 29, 1980, in Docket No. RM80-10.

[6] Section 204(e) of the NGPA provides:

(e) *Determination Of Alternative Fuel Cost.*

(1) *In General.*—Except as provided in paragraph (2), the appropriate alternative fuel cost for any region (as designated by the Commission) shall be the price, per million Btu's, for Number 2 fuel oil determined by the Commission to be paid in such region by industrial users of such fuel.

(2) *Reduction of Appropriate Alternative Fuel Cost Allowed.*—The Commission may, by rule, or order, reduce the appropriate alternative fuel cost—

(A) for any category of incrementally priced industrial facilities, subject to the rule required under section 201 (including any amendment under section 202 to such rule) located within any region and served by the same interstate pipeline; or

(B) for any specific incrementally priced industrial facility which is subject to such requirements and which is located in any region;

to an amount not lower than the price, per million Btu's, for Number 6 fuel oil determined by the Commission to be paid in such region by industrial users of such fuel, if and to the extent the Commission determines, after an opportunity for written and oral presentation of views, data, and arguments, that such reduction is necessary to prevent increases in the rates and charges to residential, small commercial, and other high-priority users of natural gas which would result from a reallocation of costs caused by the conversion of such industrial facility or facilities from natural gas to other fuels, which conversion is likely to occur if the level of the appropriate alternative fuel cost were not so reduced.

[7] Section 206(d) of the NGPA provides:

(d) *Other Exemptions.*—

Footnotes continued on next page

specific standard for establishing alternative fuel costs set forth in section 204(e). Lastly, NCLC claimed that the Commission's action in promulgating Order No. 81 was arbitrary and capricious in that the Commission failed to consider the factor set forth in section 204(e) of the NGPA; *i.e.*, the impact of the alternative fuel costs on the rates of high priority consumers.

A discussion of the Commission's rationale and authority for granting a partial exemption to industrial boiler fuel facilities from incremental pricing above the price of high sulphur No. 6 fuel oil is fully set forth in the preamble in Order No. 81. It was the Commission's belief that to provide for a single No. 6 ceiling until November 1, 1981, under authority of section 204(e) may go beyond the Commission's statutory role in implementing section 204. Consequently, as more fully discussed in Order No. 81, the order was issued under the exemption authority of section 206(d) and was transmitted to Congress for review pursuant to that section.

Finally, Order No. 81 was submitted to the Congress for review pursuant to the requirements of section 206(d) of the NGPA and was not disapproved during the thirty day review period. The Commission believes the Congressional concurrence, as evidenced by its inaction with respect to the submittal, serves to provide additional support for the position adopted by the Commission in Order No. 81. Accordingly, for the reasons discussed above, the request for reconsideration of Order No. 81 is denied.

The Commission orders

1. The motion by NCLC to extend the time for filing the petition for rehearing is denied.

2. The petition filed by NCLC for rehearing of Order No. 81 in Docket No. RM79-21 is rejected.

3. The request for reconsideration of Order No. 81 in Docket No. RM79-21 is denied.

Footnotes continued from last page

(1) *In General.*—The Commission may, by rule or order, provide for the exemption, in whole or in part, of any other incrementally priced industrial facility or category thereof from the rule prescribed under section 201 (including any amendment under section 202 to such rule).

(2) *Congressional review.*—Any rule which provides for any exemption under this subsection may take effect after the expiration of the first 30 calendar days of continuous session of Congress (determined in accordance with section 507(d)) after a copy of such rule has been submitted to each House of the Congress, unless, during such 30 day period of continuous session of Congress, either House of the Congress adopts a resolution of disapproval described in section 507(c)(3), with respect to such rule.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21479 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

18 CFR Part 282

[Docket No. RM80-24; Order No. 85-B]

Incremental Pricing; Permanent Rule Defining Small Existing Industrial Boiler Fuel Users Exempt From Incremental Pricing Surcharges

July 3, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order on Rehearing of Order No. 85.

SUMMARY: The Federal Energy Regulatory Commission hereby issues an order granting rehearing of Order No. 85, the permanent rule defining small existing industrial boiler fuel facilities exempt from incremental pricing under section 206(a)(2) of the Natural Gas Policy Act of 1978. The order grants rehearing to the extent that (1) it modifies the exemption affidavit filing requirements and permits exemptions on the basis of supplier company records; (2) it amends the definition set forth in § 282.202(g) to clarify that the words "number of days of service" means the number of days on which service of natural gas was available, and (3) it adds a definition of the term "normal delivery level" to § 282.202. The order denies rehearing as to all other specifications of error.

EFFECTIVE DATE: Effective July 3, 1980.

FOR FURTHER INFORMATION CONTACT:

Alice Fernandez, Office of Producer and Pipeline Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-9095, or

Carol M. Lane, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426, (202) 357-8114.

I. Background and Filed Applications

On May 8, 1980, the Commission issued in this docket Order No. 85 [1], which established a permanent rule under section 206(a)(2) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3346. The rule defines small existing industrial boiler fuel facilities and exempts them from the incremental pricing program established in Title II of the NGPA. Order No. 85 also set forth an exemption affidavit filing scheme under which such exemptions would be obtained.

On May 20, 1980, the Commission, on its own motion, issued Order No. 85-A,[2] which extended for two months the exemption affidavit deadlines established in Order No. 85.

Timely applications for rehearing, reconsideration, or stay of Order No. 85 were filed by the following:

Applicant and Date

Northern Illinois Gas Co.—May 19, 1980
United Distribution Cos.—May 21, 1980 [3]
Wisconsin Public Service Corp.—June 2, 1980
Pacific Gas & Electric Co.—June 3, 1980
Entex, Inc.—June 3, 1980
Southern California Gas Co.—June 5, 1980
Washington Gas Light Co., *et al.*—June 6, 1980
Iowa Power & Light Co.—June 9, 1980
East Tennessee Natural Gas Co.—June 9, 1980
Alabama Gas Corp.—June 9, 1980
Louisville Gas & Electric Co.—June 9, 1980
Process Gas Consumers Group, *et al.*—June 9, 1980
Stauffer Chemical Co.—June 9, 1980
National Renderers Assn., Inc.—June 9, 1980

In addition, a late-filed application for rehearing, accompanied by a Petition for Waiver of the Commission's filing requirements, was filed by the American Gas Association (AGA) on June 11, 1980. AGA asserts that because the Notice of Proposed Rulemaking in this docket did not discuss any changes in the exemption affidavit requirements, the industry AGA represents anticipated no need to seek rehearing of Order No. 85. Thus, when the order was issued, AGA was unable to formulate a consensus and offer it to the Commission within the available time limit.

The Commission does not find that good cause exists under these circumstances to permit a waiver of the regulations pertaining to the filing of applications for rehearing. However, the Commission will treat this late-filed application as a petition for reconsideration. As such, the merits of the arguments contained therein will be considered in the body of this order.[4]

On June 18, 1980, the Commission issued an order granting rehearing of Order No. 85 solely for purposes of further consideration. The instant order

[1] 45 F.R. 31980 (May 15, 1980).

[2] F.R. 36375 (May 30, 1980).

[3] United Distribution Cos. also filed a supplemental application for rehearing of this order on June 6, 1980.

[4] The Commission's consideration of this filing and our action in response thereto does not serve to waive the Commission's right to assert that the applicant is not entitled to seek judicial review of the Commission's order herein because it failed to apply in timely fashion for rehearing of Order No. 85. *See Boston Gas Company v. FERC*, 575 F.2d 975, 977-980 (1st Cir. 1978).

grants rehearing of Order No. 85 to the extent set forth below, and amends certain sections of the regulations set forth in that order.

II. Specifications of Error

A. *Exemption Affidavits.* Under the regulations established in Docket No. RM79-14 [5] the natural gas supplier was permitted to determine on the basis of its company records which industrial boiler fuel facilities on its system were entitled to the interim small user exemption, and to exempt such facilities from incremental pricing surcharges without further action by the owner or operator of the facility. In cases where the supplier was unable to make such a determination, it was required to mail or otherwise supply an exemption affidavit to the owner/operator of the facility.

In Order No. 85, this procedure was changed by eliminating exemptions based on the supplier's records. Thus, in order to obtain the permanent small user exemption, end-users were required to complete and return exemption affidavits.

A number of the applicants for rehearing asserted that the Commission erred in establishing this procedure. It was pointed out that while the *volume* of gas consumed by small users is not great, the *number* of such users is enormous. Consequently, a tremendous administrative burden has been placed on suppliers by requiring them to supply affidavits to all of their end-users who were exempt from incremental pricing under the interim exemption. It was noted that the majority of small industrial end-users know little or nothing about incremental pricing and would turn to the supplier for assistance. The supplier would thus have to explain to each user how to fill out the affidavit and provide to each user the very information which now underlies that user's exemption on the basis of the supplier's company records. Pacific Gas and Electric, for example, noted that its estimated cost of compliance with this requirement (involving distribution and processing of some 22,800 affidavits) would be 192,000 man-hours and $3.8 million.

Other suppliers noted that they are unable to determine which of their industrial customers would be classified as boiler fuel facilities, so affidavits would have to be sent to *all* industrial users. In some cases, commercial and industrial users are categorized together in supplier records. Again, affidavits would have to be sent to all such users even though commercial users are not subject to the incremental pricing program.

Finally, it was pointed out that the affidavit requirement, which would ultimately result in hundreds of thousands of filings, would contravene the Commission's stated policy of minimizing both compliance costs and paperwork.

The Commission finds that these rehearing applications raise compelling arguments in favor of a return to exemptions on the basis of supplier records. Accordingly, we have revised §§ 282.204(c) and (d) to provide for such a procedure. We have also, as suggested by several applicants, added a new section 282.204(c)(2)(iii) to require that each natural gas supplier submit to the Commission a single sworn statement that for all exemptions granted on the basis of company records under § 282.204(c)(2), (1) the facility's "average per day use of natural gas as boiler fuel during the month of peak use during calendar year 1977" (as defined in § 282.202(g)) did not exceed 300 Mcf, and (2) the facility was "in existence on November 9, 1978" (as defined in § 282.202(e)).

We have also changed the date by which suppliers must provide affidavits to those end-users who are not exempted on the basis of company records (or any other exemption listed in Part 282), but which the supplier determines may be eligible for an existing small user exemption, to afford the supplier more time to provide such affidavits. The date has been extended from July 20, 1980 to August 15, 1980. In addition, we have extended to September 30, 1980, the date by which an end-user must return the affidavit in order to receive an exemption as of October 1, 1980.

The Commission believes that the above-described changes will relieve most of the administrative burden associated with exemption affidavits yet will insure that exemptions based on company records have been accurately determined.

B. *Definition of "average per day use of natural gas as a boiler fuel during the month of peak use during calendar year 1977."* Several applicants objected to the Commission's definition in § 282.202(g) of the term "average per day use of natural gas as a boiler fuel during the month of peak use during calendar year 1977." It was asserted that this definition was issued as a final rule without prior notice or opportunity for comment.

The Commission notes that § 282.202(g) was included in the regulations as a final solution to an issue which was raised on two previous occasions. First, in the Order on Rehearing of the final regulations on incremental pricing [6] the Commission discussed several comments which pointed out that a potential inequity existed in those cases where a small user exemption was granted to an otherwise large industrial facility whose deep curtailments in 1977 caused it to qualify under the "small" user definition, as measured by the 300 Mcf threshold. Second, the Commission specifically raised this issue and sought public comment on it in the Notice of Proposed Rulemaking issued in this docket on March 6, 1980. [7] In the March 6th Notice, the Commission noted its concern that "potentially serious inequities" could arise if large facilities curtailed in 1977 could qualify as "small" users. The Commission suggested four possible ways of dealing with this problem and sought other suggestions as to how it should best proceed under the statute.

The definition adopted in the final rule in paragraph (g) was based on a suggestion filed by a commenter in response to the Commission's notice. The Commission believes that the public received adequate notice of the Commission's intent to issue a regulation resolving this potential inequity if we determined, on the basis of public comment, that a reasonable solution could be found under the statute. The definition promulgated in Order No. 85 represents that solution.

Several applicants asked the Commission to confirm that determination of the month of "peak" use during calendar year 1977, as set forth in § 282.202(g) is based upon *actual* gas usage. We so confirm. The "peak" month is not the month in which a facility experienced the highest "average per day use" in 1977; it is the month in which the facility used the greatest actual volume of natural gas as boiler fuel. Once the "peak" month has been determined, the formula set forth in § 282.202(g) may be applied to determine the facility's "average per day use" during that month.

Several applicants sought clarification of the words "normal delivery level" as used in § 282.202(g). The Commission notes that "normal delivery level" during the month of peak use refers to the facility's *actual* deliveries during that month, unless the facility was subject to curtailment. Accordingly, a user whose actual use of gas in 1977 was 50% of its actual use of gas in 1976—due to lower demand for the facility's

[5] *Regulations Implementing the Incremental Pricing Provisions of the Natural Gas Policy Act of 1978,* Order No. 49, 44 FR 57725 (Oct. 5, 1979).

[6] Order No. 49-A, 45 FR 767 (Jan. 3, 1980).

[7] 45 FR. 15559 (Mar. 11, 1980).

product—is considered to have used gas at a "normal delivery level" during 1977. The only cases in which "normal delivery level" is not attained are cases in which the facility was curtailed during the month of peak use in 1977. A definition of the term "normal delivery level" has been added to § 282.202 in order to clarify this point.

Another applicant requested clarification of the words "number of days of service" as used in § 282.202(g). The Commission notes that Order No. 85 was not fully clear on this point, and we wish to stress that "number of days of service" refers to the number of days in the monthly billing period for which service of natural gas was *available.* Accordingly, if service was available on weekends, weekend days would be considered to be "days of service," even if the facility did not use natural gas as a boiler fuel on those days. Section 282.202(g) has been amended to reflect this clarification.

The Commission would also remind suppliers and end users that if available service was curtailed by, for example, 50 percent during the month, § 282.202(g) would define the number of days of service during that month as 30 x 50 percent, or 15 days or service.

Several of the distributor applicants noted that they would be able to determine, based on their records, which customers experienced curtailment during 1977. One distributor, however, asserted that due to the unusual nature of its curtailment plan, it would find it impossible to apply the definition set forth in § 282.202(g) to determine which of its customers are exempt from incremental pricing. The Commission notes that in a situation where the distributor is unable to determine a customer's average per day use in a manner which meets the intent of § 282.202(g), that distributor may petition the Commission for assistance in deriving a formula which would be appropriate for its particular system.

C. *Definition of "in existence on November 9, 1978."* One applicant asserted that the Commissioin erred in promulgating § 282.202(f), which defines the term "in existence on November 9, 1978." That definition provides, *iter alia,* that a facility, when being reviewed for purposes of an exemption, must be "essentially the same facility as to burner input or boiler capacity . . . as it was on November 9, 1978."

It was argued that even if additional boiler equipment is added to a facility after the November 9th date, the older boiler equipment (that which existed on 11/9/78) continues to exist as a "subset" of the whole facility and therefore continues to be exempt from incremental pricing under section 206(a)(2) of the NGPA.

The Commission believes this applicant misunderstands the statutory exemption for small existing industrial boiler fuel users. The exemption is clearly based on total gas consumption by a *facility,* not by a "subset" within a facility. *See* section 206(a)(1) and (a). We believe it would be beyond the scope of section 206(a) to exempt a *portion* of a large facility on the basis that the portion, standing alone, would qualify as a "small" facility under the rule established in this docket.

III. Effective Date

The regulations set forth below are being made effective immediately for the reason that they relieve previous restrictions under this Part, or are interpretive in nature. Accordingly, such effective date is consistent with section 553(d) of the Administrative Procedure Act.

The Commission orders:

Upon the findings contained jn this order and for the reasons set forth above, the Commission orders:

1. The above-listed timely applications for rehearing or reconsideration of Order No. 85 are granted to the extent set forth in this order. They are denied as to requests for stay and as to all other specifications of error.

2. The petition of the American Gas Association to file an application for rehearing out of time is denied.

3. Part 282 of Subchapter I, Chapter 1, Code of Federal Regulations, is amended as set forth below, effective immediately.

[Natural Gas Policy Act of 1978, Pub. L. No. 95-621, 92 Stat. 3350, 15 U.S.C. 3301-3432.]

In consideration of the foregoing, Part 282, Subchapter I, Chapter 1 of Title 18 is amended as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,

Secretary.

§ 282.202 [Amended.]

1. Section 282.202 is amended in paragraph (g) by replacing the phrase "of service" with the phrase "on which service was available" in each place the former phrase appears in the paragraph.

2. Section 282.202 is further amended by adding a new paragraph (h), to read as follows:

§ 282.202 Definitions.

For the purposes of this subpart:

* * * * *

(h) "Notmal delivery level" means the level of deliveries which would occur in the absence of curtailment.

3. Section 282.204 is amended by revising paragraph (c) to read as follows:

§ 282.204 Obtaining an Exemption.

* * * * *

(c) *Exemption on the basis of company records.* (1) *Exemption until September 30, 1980.* (i) On or before October 15, 1979, each natural gas supplier shall determine from an examination of its records which industrial boiler fuel facilities, as identified under paragraph (b), were in existence on November 9, 1978, and either:

(A) did not use more than an average of 300 Mcf per day during any calendar month of calendar year 1977; or

(B) did not use more than an average of 300 Mcf per day for boiler fuel during any calendar month of calendar year 1977.

(ii) The natural gas supplier shall treat an industrial boiler fuel facility for which an affirmative determination is made under subparagraph (1) as exempt from incremental pricing under this part until September 30, 1980, without further action by the owner or operator of the facility.

(2) *Exemption after September 30, 1980.* (i) On or before August 15, 1980, each natural gas supplier shall determine from an examination of its records those industrial boiler fuel facilities, as identified under paragraph (b) of this section:

(A) which were "in existence on November 9, 1978," as defined in § 282.202(f), and

(B) whose "average per day use of natural gas as a boiler fuel during the month of peak use during calendar year 1977," as defined in § 282.202(g), did not exceed 300 Mcf.

(ii) The natural gas supplier shall treat an industrial boiler fuel facility for which an affirmative determination is made under clause (i) of this subparagraph as exempt from incremental pricing under this part as of October 1, 1980, without further action by the owner or operator of the facility.

(iii) On or before November 1, 1980, each natural gas supplier shall file with the Commission a statement, under oath, that for all exemptions from incremental pricing granted under subparagraph (2) of this paragraph, (A) the exempted facility was in existence on November 9, 1978; and (b) the exempted facility's average per day use of natural gas as a boiler fuel during the month of peak use

during calendar year 1977 did not exceed 300 Mcf.

* * * * *

4. Section 282.204 is amended by revising (d)(2)(i)(B); (d)(2)(ii)(B), and that part of (d)(7) which precedes (i) to read as follows:

(d) *Exemption on the basis of affidavit.*

(1) * * *

(2) *Availability from natural gas suppliers.*

(i) *Initial Service.*

(A) [reserved]

(B) Not later than August 15, 1980, each natural gas supplier shall mail or otherwise supply an exemption affidavit, as described in subparagraph (1) of this paragraph, to the owner or operator of each industrial boiler fuel facility on such supplier's system which the supplier does not determine to be exempt pursuant to paragraph (c), or which is not otherwise exempt under this Part, and which the supplier determines may be eligible for an exemption under § 282.203(a).

(ii) *Response date.*

(A) [reserved]

(B) Natural gas suppliers which supply exemption affidavits under clause (i)(B) of this subparagraph shall request that executed affidavits be filed on or before September 30, 1980, in accordance with subparagraph (4) of this paragraph.

(iii) * * *

(3) * * *

(4) * * *

(5) * * *

(6) * * *

(7) *Effective date of exemption.* If the owner or operator of an industrial boiler fuel facility files an exemption affidavit with the Commission in order to obtain an exemption under this part, and sends a copy to the facility's natural gas supplier, the facility shall be exempt from incremental pricing in accordance with this part, as of the first full month following the date the affidavit is filed.

* * * * *

[FR Doc. 80-21372 Filed 7-17-80; 8:45 am]
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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Federal Old-Age, Survivors, and Disability Insurance; Deductions, Reductions, and Nonpayment of Benefits; the Retirement Test

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: The Social Security Amendments of 1977 (1) modify the monthly earnings test beginning with monthly benefits payable after 1977; (2) raise the monthly and annual earnings limitation amount for individuals age 65 and over beginning with taxable years ending after 1977; and (3) lower the age from 72 to 70 at which there is no longer an annual earnings limitation beginning with taxable years ending after 1981.

These final regulations explain the changes made by the amendments and clarify the effects of the statute. The regulations (1) tell specifically how the annual and monthly earnings tests will be applied; (2) list the increased exempt amounts of monthly earnings for beneficiaries age 65 and over for taxable years ending after 1977 and before 1983; and (3) show that the age at which the retirement test no longer applies will be 70, not 72, beginning with taxable years ending after 1981.

EFFECTIVE DATES: These final regulations shall be effective July 18, 1980.

FOR FURTHER INFORMATION CONTACT: Clara B. Powell, Legal Assistant, Office of Operational Policy and Procedures, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-7459.

SUPPLEMENTARY INFORMATION: On November 17, 1978, these rules were published in the Federal Register (43 FR 53713) as Interim Regulations with a 60-day comment period.

Modification of the Monthly Earnings Test

Before the passage of the Social Security Amendments of 1977 (Pub. L. 95-216), two tests were used to determine the benefits payable to social security beneficiaries who continued to work while entitled to benefits. These were the annual earnings test and the monthly earnings test. Under the annual earnings test, the monthly benefits payable to an individual during his or her taxable year were reduced $1 for each $2 of earned income for that year above the annual earnings limitation amount established for that year. Deductions were made beginning with the first month of the taxable year in which benefits were payable to the individual.

However, before the individual's monthly benefits were reduced, the monthly earnings test was applied. Under the monthly test, no matter how much money the beneficiary earned for the year as a whole, benefits could not be reduced for any month in the taxable year during which the beneficiary earned wages less than or equal to the monthly earnings limitation amount established for that year (which, in most cases, is one-twelfth of the annual earnings limitation amount for that year) and did not perform substantial services in self-employment. These months are referred to as "nonservice" months.

One consequence of the monthly earnings test was that beneficiaries who earned the same amount of money in a given year received different benefits for that year simply because their patterns of work during the year were different. Consider, for example, two self-employed beneficiaries each entitled to a monthly benefit amount of $400. One earned $15,000 for the year, but only worked 3 months. Benefits totalling $3,600 were paid this individual under the monthly earnings test for the 9 nonservice months. The second beneficiary also earned $15,000, but worked regularly throughout the year. Since the beneficiary had no nonservice months, the monthly test did not apply. Under the annual test, no benefits at all were paid to this beneficiary.

The Social Security Amendments of 1977 correct the unfairness of paying different benefits to beneficiaries who earn the same amount of money in a given year, simply because their patterns of work during the year may differ. Beginning with benefits payable for January 1978, the monthly test is eliminated (except as explained below) and the benefits payable to a beneficiary during his or her taxable year will be reduced $1 for each $2 of his or her annual earnings above the annual earnings limitation amount, no matter how many nonservice months the beneficiary might have during the year.

The monthly earnings test will continue to apply, however, in the first taxable year a beneficiary has a nonservice month while entitled to benefits. This year when the monthly test applies to a beneficiary is called the "grace year." In most cases, the grace year will be the beneficiary's actual year of retirement. Applying the monthly test in the beneficiary's grace year means that benefits usually can be paid beginning with the first month of retirement regardless of how much money the beneficiary earned in the months before retirement.

Also, the monthly test can apply in more than one grace year to any beneficiary if the beneficiary's entitlement to one type of benefit ends, and, after a break in entitlement of at least 1 month, the beneficiary becomes entitled to a different type of benefit. The monthly test would then apply in the first taxable year that the

beneficiary has a nonservice month while entitled to the new type of benefit.

It should be noted that, under the Social Security Act, no benefit deductions are made because of excess annual earnings earned by persons receiving benefits as disability beneficiaries under section 223 of the Act or as disabled widows, widowers, or children under section 202. Since the annual earnings test does not apply to these beneficiaries, the monthly earnings test does not apply to them either. As a result, no nonservice month incurred by any person while entitled to a benefit as a disabled widow, widower, or child, or to disability benefits under section 223, will be counted in determining whether any given year is the beneficiary's grace year in which the monthly earnings test can apply.

As mentioned earlier, the elimination of the monthly earnings test except for the beneficiary's grace year is effective for monthly benefits payable for months after 1977. This means that beneficiaries who had a nonservice month while entitled to benefits in a taxable year ending before 1978, cannot have the monthly test applied to them in 1978 or thereafter, unless, as previously explained, they become (or have become) entitled to a different type of benefit after a break in entitlement of at least 1 month. On the other hand, since only benefits payable for months after 1977 are affected by the amendment, no beneficiary has been overpaid because the monthly test was applied to him or her in more than 1 taxable year ending before 1978. Because there was a delay in implementing the change in the monthly earnings test until June 1978, we adopted a waiver policy for those net overpayments outstanding at the end of 1978 which resulted from erroneous application of the monthly earnings test for January through May 1978.

Exempt Amount for Beneficiaries Age 65 and Older

Another provision of the Social Security Amendments of 1977 increases the monthly earnings limitation amount for beneficiaries age 65 and older above the amount for beneficiaries under age 65. In the past, the monthly exempt amount was the same for all beneficiaries. The annual exempt amount for beneficiaries age 65 and older is also increased since that amount is based on the monthly exempt amounts. This provision is effective for all months of any taxable year ending after December 1977.

Age at Which Retirement Test No Longer Applies

The age at which the retirement test no longer applies is reduced from 72 to 70. This provision is effective for all months of any taxable year ending after December 1981. We are including this provision now so that beneficiaries making long-range retirement plans will know what rules will apply to them in 1982.

Discussion of Comments

We received nine comments on the Interim Regulations, five from organizations, three from individuals and one from a Congressman. Most of the comments dealt with the effects of the change in the monthly earnings test under the 1977 Amendments. The comments and suggestions we received and our responses are summarized as follows:

1. Provide Waiting Period Before Implementation and Ignore Preamendment Events

Comment. One group suggested that there should be a waiting period until 1981 before putting the 1977 Amendments modifying the monthly earnings test into effect and that we should allow a grace year in the actual year of retirement. Several commenters stated that the new rules for the monthly earnings test are being applied retroactively and this creates injustices that could be corrected by a temporary waiver of the modification of the monthly earnings test for those affected during a transition period. Several retirement associations requested that we allow everyone a monthly earnings test for 1 year after 1977. The groups concluded that our interpretation of the law denies the "first year of retirement" to persons retiring in 1978 or in the future and that, in effect, we have said that the first year in which a person has a nonservice month is that person's first year of retirement even though that year was prior to 1978, the effective date of the new provision. The groups also believe that the legislative history of the amendment limiting the application of the monthly earnings test does not show that any retroactive effect was intended.

Response. The legislative history shows that the Congress specifically modified the monthly earnings test in order to end promptly the differential treatment of beneficiaries based on how they scheduled their working months in the years following their entitlement to social security benefits. The former earnings test permitted some workers with substantial earnings to receive retirement benefits even though they had not actually retired or even changed their usual patterns of work. We furnished the estimates of cost reductions resulting from modifying the monthly earnings test to the 95th Congress based on the assumption that beneficiaries who had used the monthly test before 1978 could use only the annual test beginning with 1978. The estimates of cost reductions were included in the congressional committee reports on the amendments with the understanding that the estimates reflected this assumption. These congressional expectations are explicit in the legislative history of the 1977 Amendments and could not be realized if, in applying the earnings test deductions, we did not take into account whether individuals had used their grace year before January 1, 1978. To give everyone another grace year after 1977, delay implementation of the amendments until 1981, or allow any other transitional period in the monthly earnings test would be inconsistent with congressional intent and therefore cannot be done by regulation.

2. Retroactivity

Comment. Another group objected to the change in the use of the monthly earnings test stating that the amendments are being applied retroactively. They argue that teachers and others took advantage of the prior law, without knowing that they would be penalized by a change in the law when they retired.

Response. We are actually applying the amendment modifying the monthly earnings test prospectively since we are applying it to benefits payable only after the enactment of the amendments. However, in applying the amendment, we are taking into account preamendment events to determine if a grace year occurred in the past. A statute is not retroactive just because implementation may depend on events and circumstances that occurred before its enactment. To grant another grace year to everyone would be contrary to the objectives Congress sought to achieve by the amendment.

3. Choice of Year To Use Monthly Test

Comment. One commenter suggested that we allow retirees to choose any one year after retirement to apply the monthly test. This could be the actual year of retirement or any year between age 65 and 72 (70 after 1981) that the retiree chooses. Such a choice would allow farmers with carryover crops or self-employed insurance salespersons with deferred commissions to take their grace year in a year to their advantage.

Response. Since the grace year is defined in the statute as the first taxable year in which a person has a nonservice month while entitled to benefits, we are not at liberty to provide an interpretation of the grace year that would have a different effect. The law defines the year in which the monthly test will be applied, and we must implement the law as written.

4. New Test Changes Meaning of "Retired"

Comment. One commenter wrote about the inequity of the change in the earnings test because a person could be considered retired under the former test but would not be considered retired under the current annual earnings test without any change in his or her status.

Response. The change to an earnings test based on annual earnings rather than an earnings pattern is more equitable on the whole for everyone. The former test resulted in payment of benefits based on—(1) the number of hours a person worked in self-employment per month and the level of skill involved in that work, and (2) the amount of wages paid an employee for work done in a month. As a general rule, we considered less than 45 hours of work during a month by a self-employed individual not to be substantial. For an employee, the amount of wages earned per month was controlling; generally earnings of one-twelfth or less of the annual exempt amount. The earnings test based solely on annual earnings after a grace year puts everyone with the same amount of annual earnings on the same basis.

5. Treatment of Renewal Commissions for Self-Employed Life Insurance Salespersons

Comment. Several commenters argued that renewal commissions for self-employed life insurance salespersons should not be included as earnings for purposes of the retirement test. We also received other comments concernings renewal commissions of self-employed life insurance salespersons which suggested that renewal commissions be treated as interest, investment income, or royalty income.

Response. Section 203(f)(5)(A) of the Social Security Act provides that net earnings for purposes of the annual earnings test include net earnings from self-employment (as defined in section 211(a) of the Act) for the taxable year. Net earnings from self-employment as defined in section 211(a) include a self-employed person's gross income for the year (as determined under the Internal Revenue Code) that he or she derives from any trade or business, less allowable deductions. There are no exceptions or allowances for income that is earned in one year and received in another. The Social Security Act requires that net earnings that are reportable for Federal income tax purposes be counted for purposes of the earnings test. We are bound by the statutory definition of what constitutes earnings for the self-employed under section 203(f)(5)(A). The current law would have to be changed in order for us to exclude renewal commissions from earnings for the self-employed.

6. Change Effective Date of Age 70 Provision

Comment. One commenter recommended that we lower the age at which the earnings test no longer applies to age 70 effective January 1, 1979.

Response. The 1977 Amendments lower the age to 70 effective for any taxable year ending after December 1981. Since the date is specified by the law, we must implement the law as written.

7. Filing for Medicare May Trigger "Grace Year"

Comment. Other comments stated that many persons file at age 65 for Medicare and that since one must be entitled to title II benefits in order to be entitled to Medicare Part A (Hospital Insurance), people could use up their "grace year" before they actually retire.

Response. A technical amendment has been proposed by the Administration that would permit individuals to file for Medicare without also filing for cash benefits. This amendment would protect people who wish Medicare protection, but who also wish to continue working beyond age 65, from inadvertently using their grace year before they actually retire. Currently, to avoid using the grace year, an individual may delay filing for social security benefits until the year he or she wishes to use the monthly test. If the individual is over age 65, hospital insurance entitlement would also be delayed. However, hospital insurance entitlement would be available, when needed, immediately upon filing for social security benefits. A person who wishes to delay filing for hospital insurance entitlement may still file for supplemental insurance benefits, Part B of Medicare, in order to protect his or her coverage and premium amount without having to file for Part A.

Accordingly, these rules with minor editorial changes and changes that update the examples in the regulations, are adopted as set forth below.

(Secs. 203, 205, and 1102 of the Social Security Act as amended; 49 Stat. 623, as amended, 53 Stat. 1368, as amended, 49 Stat. 647, as amended; 42 U.S.C. 403, 405, and 1302; Pub. L. 95–216)

(Catalog of Federal Domestic Assistance Program Nos. 13.803, Social Security Retirement Insurance and 13.805, Social Security Survivors Insurance)

Dated: May 29, 1980.

William J. Driver,

Commissioner of Social Security.

Approved: July 14, 1980.

Patricia Roberts Harris,

Secretary of Health and Human Services.

Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. Section 404.428(a) is revised to read as follows:

§ 404.428 Earnings in a taxable year.

(a) *General.* (1) In applying the annual earnings test (see § 404.415(a)) under this subpart, all of a beneficiary's earnings (as defined in § 404.429) for all months of the beneficiary's taxable year are used even though the individual may not be entitled to benefits during all months of the taxable year. (See, however, § 404.430 for the rule which applies to earnings of a beneficiary who attains age 72 during the taxable year (age 70 for taxable years ending after December 1981).)

(2) The taxable year of an employee is presumed to be a calendar year until it is shown to the satisfaction of the Social Security Administration that the individual has a different taxable year. A self-employed individual's taxable year is a calendar year unless the individual has a different taxable year for the purposes of subtitle A of the Internal Revenue Code of 1954. In either case, the number of months in a taxable year is not affected by—(i) the time a claim for social security benefits is filed, (ii) attainment of any particular age, (iii) marriage or the termination of marriage, or (iv) adoption. A taxable year ends with the death of the beneficiary. The month of death is counted as a month of the deceased beneficiary's taxable year in determining whether the beneficiary had excess earnings for the year under § 404.430.

* * * * * *

2. Section 404.430 is amended as follows:

The section heading is revised; paragraphs (a)(3) and (b) are revised; in paragraph (c)(1) the material preceding paragraph (c)(1)(i) is revised; and a new paragraph (d) is added to read as follows:

§ 404.430 Excess earnings defined for taxable years ending after December 1972; monthly exempt amount defined.

(a) *Method of determining excess earnings for years ending after December 1972.* For taxable years ending after 1972, an individual's excess earnings for a taxable year are 50 percent of his or her earnings (as described in § 404.429) for the year which are in excess of the product obtained by multiplying the number of months in that taxable year by the following applicable monthly exempt amount:

(1) * * *

(2) * * *

(3) the exempt amount for taxable years ending after December 1974, as determined under paragraphs (c) and (d) of this section. However, earnings in and after the month an individual attains age 72 will not be used to figure excess earnings for retirement test purposes. For the employed individual, wages for months prior to the month of attainment of age 72 are used to figure the excess earnings for retirement test purposes. For the self-employed individual, the pro rata share of the net earnings or net loss for the taxable year for the period prior to the month of attainment of age 72 is used to figure the excess earnings. If the beneficiary was not engaged in self-employment prior to the month of attainment of age 72, any subsequent earnings or losses from self-employment in the taxable year will not be used to figure the excess earnings. Where the excess amount figured under the provisions of this section is not a multiple of $1, it is reduced to the next lower dollar. (All references to age 72 will be age 70 for taxable years ending after December 1981.)

Example 1. The self-employed beneficiary attained age 72 in July 1979. His net earnings for 1979, his taxable year, were $12,000. The pro rata share of the net earnings for the period prior to July is $6,000. His excess earnings for 1979 for retirement test purposes are $750. This is computed by subtracting $4,500 ($375×12), the exempt amount for 1979, from $6,000 and dividing the result by 2.

Example 2. The beneficiary attained age 72 in July 1979. His taxable year was calendar year 1979. His wages for the period prior to July were $6,000. From August through December 1979, he worked in self-employment and had net earnings in the amount of $2,000. His net earnings from self-employment are not used to figure his excess earnings. Only his wages for the period prior to July 1979 ($6,000) are used to figure his excess earnings. As in example 1, his excess earnings are $750.

Example 3. The facts are the same as in example 2, except that the beneficiary worked in self-employment throughout all of 1979 and had a net loss of $500 from the self-employment activity. The pro rata share of the net loss for the period prior to July is $250. His earnings for the taxable year to be used in figuring excess earnings are $5,750.

This is computed by subtracting the $250 net loss from self-employment from the $6,000 in wages. The excess earnings are $625 (($5,750 − $4,000) ÷ 2).

(b) *Monthly exempt amount defined.* The retirement test monthly exempt amount is the amount of wages which a social security beneficiary may earn in any month without part of his or her monthly benefit being deducted because of excess earnings. For benefits payable for months after 1977, the monthly exempt amount applies only in a beneficiary's grace year or years. (See § 404.435(a) and (c)).

(c) *Method of determining monthly exempt amount for taxable years ending after December 1974.* (1).Except as provided under paragraph (d) of this section, for purposes of paragraph (a)(3) of this section, the applicable monthly exempt amount effective for an individual's taxable year that ends in the calendar year after the calendar year in which an automatic cost-of-living increase in old-age, survivors, and disability insurance benefits is effective is the larger of—* * *

(d) *Method of determining monthly exempt amount for taxable years ending after December 1977 for beneficiaries age 65 or over.* (1) For purposes of paragraph (a)(3) of this section, for all months of taxable years ending after 1977, the applicable monthly exempt amount for an individual who has attained age 65 before the close of the taxable year involved is—

(i) $333.33⅓ for each month of any taxable year ending in 1978;

(ii) $375 for each month of any taxable year ending in 1979;

(iii) $416.66⅔ for each month of any taxable year ending in 1980; and (1v) $458.33⅓ for each month of any taxable year ending in 1981; and

(v) $500 for each month of any taxable year ending in 1982.

(2) Fractional amounts listed in paragraph (d)(1) of this section shall be rounded to the next higher whole dollar amount, unless the individual shows that doing so results in a different grace year (see § 404.435 (a) and (c)):

3. Section 404.435 is revised to read as follows:

§ 404.435 Excess earnings; months to which excess earnings cannot be charged.

(a) *Monthly benefits payable for months after 1977.* Beginning with monthly benefits payable for months after 1977, no matter how much a beneficiary earns in a given taxable year, no deduction on account of excess earnings will be made in the benefits payable for any month—(1) in which he or she was not entitled to a monthly benefit; (2) in which he or she was considered not entitled to benefits (due to noncovered work outside the United States, no child in care, or refusal of rehabilitation, as described in § 404.436); (3) in which he or she was age 72 or over (age 70 for taxable years ending after 1981); (4) in which he or she was entitled to payment of disability insurance benefit; (5) in which he or she was age 18 or over and entitled to a child's insurance benefit based on disability; (6) in which he or she was entitled to a widow's or widower's insurance benefit based on disability; or (7) which was a "nonservice" month (see paragraph (b) of this section) in the beneficiary's "grace year" (see paragraph (c) of this section).

(b) *Nonservice month defined.* A nonservice month is any month in which an individual, while entitled to retirement or survivors benefits—(1) does not work in self-employment (see paragraphs (d) and (e) of this section); (2) does not perform services for wages greater than the monthly exempt amount set for that month (see paragraph (f) of this section and § 404.430 (b), (c), and (d)); and (3) does not work in noncovered remunerative activity on 7 or more days in a month while outside the United States. A nonservice month occurs even if there are no excess earnings in the year.

(c) *Grace year defined.* (1) A beneficiary's first grace year is the taxable year in which the beneficiary has for the first time a nonservice month (see paragraph (b) of this section) while entitled to a retirement or survivors benefit. (2) A beneficiary may have another grace year each time his or her entitlement ot one type of benefit ends and, after a break in entitlement to at least 1 month, he or she becomes entitled to a different type of retirement or survivors benefit. The new grace year would then be the first taxable year in which the beneficiary has a nonservice month while entitled to this new type of benefit. (3) A month will not be counted as a nonservice month for purposes of determining whether a given year is a benefitciary's grace year if the nonservice month occurred while the beneficiary was entitled to disability benefits under section 223 of the Social Security Act or as a disabled widow, widower, or child under section 202.

Example 1: Don, age 65, will retire from his regular job in April of next year. Although he will have earned $11,000 for January–April of that year and plans to work part time, he will not earn over the monthly exempt amount after April. Don's taxable year is the calendar year. Since next year will be the first year in

which he has a nonservice month while entitled to benefits, it will be his grace year and he will be entitled to the monthly earnings test for that year only. He will receive benefits for all months in which he does not earn over the monthly exempt amount (May–December) even though his earnings have substantially exceeded the annual exempt amount. However, in the years that follow, only the annual earnings test will be applied if he has earnings that exceed the annual exempt amount, regardless of his monthly earnings.

Example 2: Marion, age 58, has been entitled to mother's insurance benefits since 1976 because she has had a child in her care who is under age 18. Marion is a seasonal worker who does not work during the summer. Her taxable year is the calendar year. Her salary of $20,000 a year is enough so that all her monthly benefits could have been withheld each year because of excess earnings under the annual earnings test. However, she received full benefits for the summer months of 1976 and 1977 because these were nonservice months under the monthly earnings test. Marion will not receive benefits for these nonservice summer months in 1978 because they do not occur during her grace year. The reason is that 1978 is not the first year in which Marion had a nonservice month while entitled to mother's benefits.

Marion's child turns age 18 in May 1979 and, as a result, Marion's entitlement to mother's benefits ends as of April 1979. Marion becomes age 60 in February 1980 and retires in June 1980. She applies for and becomes entitled to widow's insurance benefits in July 1980. Because there was a break in entitlement to benefits of at least 1 month before entitlement to another type of benefit, 1980 is a grace year for Marion because it is the first year in which she has a nonservice month while entitled to this new type of benefit.

(d) *When an individual works in self-employment.* An individual works in self-employment in any month in which he or she performs substantial services (see § 404.446) in the operation of a trade or business (or in a combination of trades and businesses if there are more than one) as an owner or partner even though there may be no earnings or net earnings caused by the individual's services during the month.

(e) *Presumption regarding work in self-employment.* An individual is presumed to have worked in self-employment in each month of the individual's taxable year until it is shown to the satisfaction of the Social Security Administration that in a particular month the individual did not perform substantial services (see § 404.446(c)) in any trade or business (or in a combination of trades and businesses if there are more than one) from which the net income or loss is included in computing the individual's annual earnings (see § 404.429).

(f) *Presumption regarding services for wages.* An individual is presumed to have performed services in any month for wages (as defined in § 404.429) of more than the applicable monthly exempt amount set for that month until it is shown to the satisfaction of the Social Security Administration that the individual did not perform services in that month for wages of more than the monthly exempt amount.

[FR Doc. 80-21691 Filed 7-17-80; 8:45 am]
BILLING CODE 4110-07-M

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20 CFR Part 416

Supplemental Security Income for the Aged, Blind, and Disabled; Filing of Applications

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: These final regulations are part of an overall effort to make the regulations of the Social Security Administration clear and easy to understand. We have reorganized and rewritten the rules for filing an application for supplemental security income (SSI) in simple, brief language.

These regulations also contain our current policy which allows the date of an oral inquiry to be used as the filing date of an application. We published regulations describing this policy on July 2, 1979.

DATES: Effective date July 18, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Dyer, Legal Assistant, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–7454.

SUPPLEMENTARY INFORMATION: We published these regulations as a Notice of Proposed Rule Making (NPRM) in the Federal Register on November 21, 1979 (44 FR 66836), with a 60-day comment period.

Background

Filing an application is generally a requirement for receipt of benefits under the Social Security Act. The application permits us to make a decision on a person's eligibility for benefits and protects the person's right to appeal if he or she is not satisfied with the decision. In some situations when a person is already eligible for benefits, and seeks a different type of benefit, he or she may become eligible for the new benefit without filing a new application. Also, there are times when we determine that a person no longer meets the requirements for receiving benefits but again meets these requirements either before he or she has exhausted all of his or her appeal rights or before the time period within which he or she must exercise those rights has expired. In such cases the payment of benefits may be resumed without the filing of a new application.

This subpart deals only with applications for supplemental security income (SSI) benefits. Regulations dealing with the application requirement for retirement, survivors, and disability benefits, for black lung benefits, and for a social security number appear in Parts 404, 410, and 422 of Title 20 of the Code of Federal Regulations.

Differences Between the Final Regulation and the NPRM

Section 416.305. The final regulation includes two exceptions to the application requirement not previously mentioned, namely when during a redetermination it is determined that a person was ineligible for benefits during part of the period of redetermination but now meets the eligibility requirements, and secondly, when a person is notified that his or her SSI benefits have been stopped because he or she is ineligible for benefits but again meets the requirements before exhausting his or her appeal rights.

Section 416.340. This section has been revised in the final regulation to make it clear that when the date of a written statement is used as the filing date, it will be the date the statement is received at another Federal or State office designated by us, or by a person we have authorized to receive applications for us, as well as when the application is received at a social security office.

Section 416.340 and section 416.345. The final regulation provides that the date of a written statement or an oral inquiry will be used as the filing date only when the use of such a date would be material, that is, when a person would be eligible for additional benefits based upon the use of the date of the statement or inquiry rather than the date the formal application was filed.

Section 416.355. The final regulation makes it clear that all persons who may lose benefits as the result of a withdrawal of an application must consent to the withdrawal rather than just any one individual as the NPRM implied.

Differences Between the Final Regulation and the Current Regulation

The entire regulation has been rewritten in simpler language and has been organized in a way that it should be easier to understand. The regulation incorporates all policies contained in the

current regulation including the use of the date of an oral inquiry as the application filing date.

We have added a new policy to provide that the date of an oral or written inquiry will be used when additional benefits would be payable. This is part of our current operating procedures. In addition, we have indicated two additional situations when a new application is not required in order to continue to receive benefits. This is not a new policy. We have just added it to the regulation.

Discussion of Comments Received

We received comments from eight individuals as the result of the NPRM published on November 21, 1979. Most were favorable and several suggested changes. We agreed with two of the comments and made the suggested changes. Some comments were outside the scope of the regulation or dealt with purely procedural matters that would not properly belong in the regulation.

Four of the commenters discussed the provision permitting us to use the date of an oral inquiry about SSI benefits as the effective filing date of an application. Although this provision was contained in a previous NPRM published in the Federal Register on June 27, 1978 (43 FR 27853) and has since become part of a final regulation published on July 2, 1979 (44 FR 38456) we have considered the latest comments relating to it.

The following are the comments we received and our responses to them:

Comment 1. When we receive an oral inquiry about SSI we should make a note in writing of this fact so that there will be a record of the inquiry. The regulation should also require us to mail an SSI application and informational materials to the inquirer.

Response. Our internal procedures call for the person receiving an oral inquiry to record the facts about an oral inquiry and to send a notice informing the inquirer of the requirements for filing a formal application. We believe that these are purely procedural instructions to carry out the requirements in § 416.345 and do not properly belong in the regulations. In regard to the mailing of the application form and informational material we do not send additional materials to all inquirers because most of the individuals making the oral inquiries and choosing not to file applications for SSI have been properly advised that they probably do not meet the eligibility requirements. The oral inquiries provision is designed primarily to protect the rights of those few individuals who have been given incorrect advice informally as to their probable eligibility.

Comment 2. Accepting the date of an oral inquiry as the application filing date will require additional control and staff.

Response. Any controls we would have to maintain would be minimal and no additional staff would be necessary. The protection of potential SSI benefit rights far outweighs these minimal administrative costs.

Comment 3. The filing of a Title II application without any showing that an individual was also inquiring orally or in writing about SSI, should not establish an effective SSI filing date because if there is a delay in sending the required notice or no notice is sent at all and a formal application is filed many months later, a tremendous back payment dating from the filing of the title II application could result. The commenter believes that this would be contrary to the mandate of Congress that benefits should not be payable for months before the month of application since SSI is based upon need. As an alternative we should treat all title II applications as applications for SSI so that the rules of administrative finality would apply.

Response. We do not believe that the possibility that a procedure may not be followed properly in some cases is a reason to abandon a policy designed to protect the rights of needy individuals. Our regulations in section 416.350 provide that a title II (retirement, survivors or disability benefits) application date will be used to protect the SSI filing date only in those cases where an explanation of the SSI program has been given the individual applying for title II benefits. This explanation will be given only in those cases where a person is within 2 months of age 65 or older or it looks as if the person may qualify as a disabled or blind individual and it is not clear that the person's title II benefits would prevent him or her from receiving SSI. This reduces the number of title II applicants who would be treated as having made oral inquiries considerably. If we were to treat all title II applications as applications for SSI we would have to process many claims of individuals obviously ineligible for SSI.

Comment 4. More compelling evidence of incompetence than statements of relationship to the claimant and of responsibility for the care of the claimant to establish an individual's authority to represent another should be required as these statements may be self-serving.

Response. This regulation deals only with the filing of a valid application for SSI benefits and who has the authority to sign for another. It does not describe the procedure and safeguards for the authority of one individual to represent another either in the pursuit of his or her claim or as a representative payee. The rules for the selection of representative payees are contained in Subpart G and the rules for representation of parties are contained in Subpart O of this Part 416. As far as the authority to sign an application for another, § 416.320(b) provides for SSA to seek additional evidence when necessary.

Comment 5. The regulation does not provide for the restoration of benefits without the filing of a new application to a person who has become ineligible for benefits but again meets all the requirements for eligibility before the time a redetermination of eligibility is made or the appeal rights have been exhausted.

Response. This result was not intended (1) where during a redetermination we find a person did not meet the requirements during any part of a period being redetermined or (2) where the person found ineligible again meets the requirements before he or she exhausts appeal rights or the time for appeal has expired. We are correcting the regulation (§ 416.305(b)) accordingly.

Comment 6. The provision that an individual must be alive at the time of filing an application should be eliminated. Such a rule could deprive an individual of as much as 3 months' retroactivity for Medicaid benefits. Also the provision that benefits may be paid only to the spouse of the individual if he or she dies after having filed his or her application may deprive that person of Medicaid benefits.

Response. The law clearly shows the intent of Congress not to provide for the retroactive payment of SSI benefits in all death cases. The provision establishing the first month of eligibility no earlier than the month of filing of an application precludes our issuing a regulation that would provide for the payment of benefits for a month in which a claimant or someone on his or her behalf has not filed the required application or in some way expressed an intent to do so. Because SSI is a program based on need the filing of an application by or on behalf of a living person is a necessary requirement for eligibility. Likewise the payment of benefits due the beneficiary upon his or her death is made only to the surviving eligible spouse of the individual and to no one else.

Comment 7. The Social Security Administration will have the authority to approve or deny a withdrawal request thus depriving the individual of

his or her right to choose whether or not to file for benefits.

Response. The Social Security Administration's authority to approve or deny a withdrawal request is not discretionary. The Social Security Administration must approve the request if the conditions described in the regulation exist. It is true that a person has the right to apply for SSI or not, but once he or she applies and a determination has been made on his or her claim, the rights of other individuals may come into play, hence the requirement that other individuals whose rights may be affected agree to the withdrawal.

Comment 8. The regulation should provide that "every" other person who may lose benefits as the result of a withdrawal of an application must agree to the withdrawal rather than "any" other person.

Response. We agree with this comment and we are correcting the regulation (§ 416.355(b)(2)) accordingly.

Comment 9. The regulation does not allow agencies to secure a written application on the day an individual inquires about SSI.

Response. Any person has the right to file an application for SSI at any time. This regulation in no way affects that right. If an inquirer wishes to file an application he or she may do so. However, we do not actively encourage an individual who obviously is ineligible for benefits to file a claim for benefits. This avoids an unnecessary expenditure of time and money on the part of both the individual and SSA.

Comment 10. Intake procedures should be modified to improve the gathering of information regarding the legal liability of third parties to pay for medical care and services provided by title XIX (Medicaid) agencies.

Response. This regulation deals exclusively with the requirement for filing an application for SSI benefits and how that requirement may be met. Any procedural arrangements for the gathering and exchange of information would have to be worked out by agreement among the agencies involved and would not be a proper subject to be included in this regulation.

Comment 11. There appears to be a conflict between the regulation and the agreement between HHS and the State of California regarding the application requirement for State supplementation for "Independent Living Arrangement Without Cooking Facilities" (restaurant meals). The agreement refers to a "separate statement of facts on an application form" implying that a separate application form is required in order to meet the application requirement for a restaurant meal allowance. The regulation states that an application for SSI is deemed to be an application for any federally administered State supplementary benefits.

Response. An application for SSI has always been deemed to be an application for any federally administered State supplementary benefits and this is not inconsistent with the agreement. The term "application form" was never intended to mean a separate application for supplementation payments in addition to the SSI application. This provision was intended only to require a separate form to supplement the basic SSI application in order to secure additional information needed to determine if the individual qualifies for benefits under this particular living arrangement. We believe that a change in the wording of the agreement would be the proper way to clarify any misunderstanding resulting from the use of the term "application form."

Additional Revision

We have revised § 416.340 dealing with the use of the date of a written statement as an application filing date to make it clear that we use the date that a statement is received at another Federal or State office designated by us or by a person we have authorized to receive applications for us, as well as the date the statement is received at a social security office.

The proposed regulations with changes as noted above are adopted as set forth below.

(Catalog of Federal Domestic Assistance Program No. 13,807, Supplemental Security Income Program)

Dated: June 4, 1980.

William J. Driver,

Commissioner of Social Security.

Approved: July 11, 1980.

Nathan J. Stark,

Acting Secretary of Health and Human Services.

Subpart C of Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is revised to read as follows:

Subpart C—Filing of Applications

General Provisions

Authority: Secs. 1102, 1611, and 1631 of the Social Security Act, 49 Stat. 647, as amended, 86 Stat. 1466, 86 Stat. 1475; (42 U.S.C. 1302, 1382, 1383)

Subpart C—Filing of Applications

General Provisions

§ 416.301 Introduction.

This subpart contains the rules for filing a claim for supplemental security income (SSI) benefits. It tells you what an application is, who may sign it, who must file one to be eligible for benefits, the period of time it is in effect, and how it may be withdrawn. It also tells you when a written statement or an oral inquiry may be considered to establish an application filing date.

§ 416.302 Definitions.

For the purpose of this subpart—

"Benefits" means any payments made under the SSI program. SSI benefits also include any federally administered State supplementary payments.

"Claimant" means the person who files an application for himself or herself or the person on whose behalf an application is filed.

"We" or "us" means the Social Security Administration (SSA).

"You" or "your" means the person who applies for benefits, the person for whom an application is filed or anyone who may consider applying for benefits.

§ 416.305 You must file an application to receive supplemental security income benefits.

(a) *General rule.* In addition to meeting other requirements, you must

file an application to become eligible to receive benefits. If you believe you may be eligible, you should file an application as soon as possible. Filing an application will—

(1) Permit us to make a formal determination whether or not you are eligible to receive benefits;

(2) Assure that you receive benefits for any months you are eligible; and

(3) Give you the right to appeal if you disagree with the determination.

(b) *Exceptions.* You need not file a new application if—

(1) You have been receiving benefits as an eligible spouse and have been living apart from your husband or wife (who is an eligible individual) for more than 6 months;

(2) You have been receiving benefits as an eligible spouse of an eligible individual who has died;

(3) You have been receiving benefits because you are disabled or blind and you are 65 years old before the date we determine that you are no longer blind or disabled.

(4) A redetermination of your eligibility is being made and it is found that you were not eligible for benefits during any part of a period for which we are making a redetermination but you currently meet the requirements for eligibility;

(5) You are notified that your payments of SSI benefits will be stopped because you are no longer eligible and you again meet the requirements for eligibility before your appeal rights are exhausted.

Applications

§ 416.310 What makes an application a claim for benefits.

An application will be considered a claim for benefits, if the following requirements are met:

(a) An application form prescribed by us must be filled out.

(b) It must be filed at a social security office, at another Federal or State office we have designated to receive applications for us, or with a person we have authorized to receive applications for us. See § 416.325.

(c) The claimant or someone who may sign an application for the claimant must sign the application. See §§ 416.315 and 416.320.

(d) The claimant must be alive at the time the application is filed. See §§ 416.340, 416.345, and 416.350.

§ 416.315 Who may sign an application.

We will determine who may sign an application according to the following rules:

(a) If you are 18 years old or over, mentally competent, and physically able, you must sign your own application. If you are 16 years old or older and under age 18, you may sign the application if you are mentally competent, have no court appointed representative, and are not in the care of any other person or institution.

(b) If the claimant is under age 18, or is mentally incompetent, or is physically unable to sign the application, a court appointed representative or a person who is responsible for the care of the claimant, including a relative, may sign the application. If the claimant is in the care of an institution, the manager or principal officer of the institution may sign the application.

(c) To prevent a claimant from losing benefits because of a delay in filing an application when there is a good reason why the claimant cannot sign an application, we may accept an application signed by someone other than a person described in this section.

Example: Mr. Smith comes to a social security office a few days before the end of the month to file an application for SSI benefits for Mr. Jones. Mr. Jones, who lives alone, just suffered a heart attack and is in the hospital. He asked Mr. Smith whose only relationship is that of a neighbor and friend to file the application for him. We will accept an application signed by Mr. Smith Since it would not be possible to have Mr. Jones sign and file the application until the next calendar month and a loss of one month's benefits would result.

§ 416.320 Evidence of authority to sign an application for another.

(a) A person who signs an application for someone else will be required to provide evidence of his or her authority to sign the application for the person claiming benefits under the following rules:

(1) If the person who signs is a court appointed representative, he or she must submit a certificate issued by the court showing authority to act for the claimant.

(2) If the person who signs is not a court appointed representative, he or she must submit a statement describing his or her relationship to the claimant. The statement must also describe the extent to which the person is responsible for the care of the claimant. This latter information will not be requested if the application is signed by a parent for a child with whom he or she is living. If the person signing is the manager or principal officer or an institution he or she should show his or her title.

(b) We may, at any time, require additional evidence to establish the authority of a person to sign an application for someone else.

§ 416.325 When an application is considered filed.

(a) *General rule.* We consider an application for SSI benefits filed on the day it is received by an employee at any social security office, by someone at another Federal or State office designated to receive applications for us, or by a person we have authorized to receive applications for us.

(b) *Exceptions.* (1) If using the date we receive an application results in a loss of benefits, we will use the date the application was mailed to us as shown by a United States postmark. If the postmark is unreadable or there is no postmark, we will consider other evidence of when the application was mailed. If we receive the application in the first 5 days of the month, we will presume that it was mailed before the end of the preceding month when there is no actual postmark to go by.

(2) We consider an application to be filed on the date of the filing of a written statement or the making of an oral inquiry under the conditions in §§ 416.340, 416.345 and 416.350.

Effective Filing Period of Application

§ 416.330 Filing before the first month you meet the requirements for eligibility.

If you file an application for SSI benefits before you meet all the requirements for eligibility, it will be good up until we make a final decision on your application. In addition, if you request that the final decision be reviewed by a court, and the request is made within the time limit set for requesting the review by the court, the application is good up until the time the court makes its final decision. If you meet all the requirements for eligibility within these time periods, we can pay you from the first month that you meet all the requirements.

§ 416.335 Filing in or after the first month you meet the requirements for eligibility.

When you file an application in a month that you meet all the other requirements for eligibility, your application is good for payment as of the first day of that month. If you file an application after the month you first meet all the other requirements for eligibility, you cannot be paid for any month before the month you filed an application. See §§ 416.340, 416.345 and 416.350 on how a written statement or an oral inquiry made before the filing of the application form may affect the filing date of the application.

Filing Date Based Upon a Written Statement or Oral Inquiry

§ 416.340 Use of date of written statement as application filing date.

We will use the date a written statement such as a letter, an SSA questionnaire or some other writing is received at a social security office, at another Federal or State office designated by us, or a person we have authorized to receive applications for us as the filing date of an application for benefits only if the use of that date will result in your eligibility for additional benefits and if only the following requirements are met:

(a) The written statement shows an intent to claim benefits for yourself or for another person.

(b) You, your spouse or a person who may sign an application for you signs the statement.

(c) An application form signed by you or by a person who may sign an application for you is filed with us within 60 days after the date of a notice we will send telling of the need to file an application. The notice will say that we will make an initial determination of eligibility for SSI benefits if an application form is filed within 60 days after the date of the notice. (We will send the notice to the claimant, or where he or she is a minor or incompetent, to the person who gave us the written statement.)

(d)(1) The claimant is alive when the application on a prescribed form is filed, or

(2) If the claimant dies after the written statement is filed, the deceased claimant's spouse or someone on his or her behalf files an application form, and the surviving spouse is eligible for SSI benefits and was living with the decreased claimant within 6 months before the claimant's death. If we learn that the claimant has died before the notice is sent or within 60 days after the notice but before an application form is filed, we will send a notice to the claimant's spouse. The notice will say that we will make an initial determination of eligibility for SSI benefits only if an application form is filed on behalf of the deceased within 60 days after the date of the notice to the spouse and only if the surviving spouse was eligible for SSI benefits and was living with the deceased claimant within 6 months before the claimant's death.

§ 416.345 Use of date of oral inquiry as application filing date.

We will use the date of an oral inquiry about SSI benefits as the filing date of an application for benefits only if the use of that date will result in your eligibility for additional benefits and the following requirements are met:

(a) The inquiry asks about the claimant's eligibility for SSI benefits.

(b) The inquiry is made by the claimant, the claimant's spouse, or a person who may sign an application on the claimant's behalf as described in § 416.315.

(c) The inquiry, whether in person or by telephone, is directed to an office or an official described in § 416.310(b).

(d) The claimant or a person on his or her behalf as described in § 416.315 files an application on a prescribed form within 60 days after the date of the notice we will send telling of the need to file an application. The notice will say that we will make an initial determination of eligibility for SSI benefits if an application form is filed within 60 days after the date of the notice. (We will send the notice to the claimant or, where he or she is a minor or incompetent, to the person who made the inquiry.)

(e)(1) The claimant is alive when the application on a prescribed form is filed, or

(2) If the claimant dies after the oral inquiry is made, the deceased claimant's spouse or someone on his or her behalf files an application form, and the surviving spouse is eligible for SSI benefits and was living with the deceased claimant within 6 months before the claimant's death. If we learn that the claimant has died before the notice is sent or within 60 days after the notice but before an application form is filed, we will send a notice to the claimant's spouse. The notice will say that we will make an initial determination of eligibility for SSI benefits only if an application form is filed on behalf of the deceased within 60 days after the date of the notice to the spouse and only if the surviving spouse was eligible for SSI benefits and was living with the deceased claimant within 6 months before the claimant's death.

§ 416.350 Treating a title II application as an oral inquiry about SSI benefits.

(a) When a person applies for benefits under title II (retirement, survirors, or disability benefits) we will explain the requirements for receiving SSI benefits and give the person a chance to file an application for them if—

(1) The person is within 2 months of age 65 or older or it looks as if the person might qualify as a blind or disabled person, and

(2) It is not clear that the person's title II benefits would prevent him or her from receiving SSI or any State supplementary benefits handled by the Social Security Administration.

(b) If the person applying for title II benefits does not file an application for SSI on a prescribed form when SSI is explained to him or her, we will treat his or her filing of an application for title II benefits as an oral inquiry about SSI, and the date of the title II application form may be used to establish the SSI application date if the requirements of § 416.345 (d) and (e) are met.

Withdrawal of Application

§ 416.355 Wthdrawal of an application.

(a) *Request for withdrawal filed before we make a determination.* If you make a request to withdraw your application before we make a determination on your claim, we will approve the request if the following requirements are met:

(1) You or a person who may sign an application for you signs a written request to withdraw the application and files it at a place described in § 416.325.

(2) You are alive when the request is filed.

(b) *Request for withdrawal filed after a determination is made.* If you make a request to withdraw your application after we make a determination on your claim, we will approve the request if the following requirements are met:

(1) The conditions in paragraph (a) of this section are met.

(2) Every other person who may lose benefits because of the withdrawal consents in writing (anyone who could sign an application for that person may give the consent).

(3) All benefits already paid based on the application are repaid or we are satisfied that they will be repaid.

(c) *Effect of withdrawal.* If we approve your request to withdraw an application, we will treat the application as though you never filed it. If we disapprove your request for withdrawal, we will treat the application as though you never requested the withdrawal.

§ 416.360 Cancellation of a request to withdraw.

You may cancel your request to withdraw your application and your application will still be good if the following requirements are met:

(a) You or a person who may sign an application for you signs a written request for cancellation and files it at a place described in § 416.325.

(b) You are alive at the time the request for cancellation is filed.

(c) For a cancellation request received after we have approved the withdrawal, the cancellation request is filed no later

than 60 days after the date of the notice of approval of the withdrawal request.

[FR Doc. 80-21682 Filed 7-17-80; 8:45 am]
BILLING CODE 4110-07-M

Food and Drug Administration

21 CFR Part 172

[Docket No. 80F-0127]

Microcapsules for Flavoring Substances; Food Additives Permitted for Direct Addition to Food for Human Consumption

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the food additive regulations to provide for the use of petroleum wax in formulating microcapsules for encapsulating spice-flavoring substances in frozen pizzas. This action is based on a petition filed by Fritzsche Dodge and Olcott, Inc., and Minnesota Mining and Manufacturing Co.

DATES: Effective July 18, 1980. Objections by August 18, 1980.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In the Federal Register of September 9, 1970 (35 FR 14228), the Food and Drug Administration (FDA) announced that a petition (FAP 1A2580) had been filed by Fitzsche Dodge and Olcott, Inc., 76 Ninth Ave., New York, NY 10111, and Minnesota Mining and Manufacturing Co., 3M Center, St. Paul, MN 55101, proposing that the food additive regulations (21 CFR Part 172) be amended to provide for the safe use of petroleum wax as a component of microcapsules for encapsulating discrete particles of authorized food-flavoring substances. After publication of the notice of filing, the petitioner amended the petition to limit the use of the microcapsules to spice-flavoring substances in frozen pizzas.

FDA has evaluated data in the petition and other relevant material and concludes that the food additive regulations § 172.230 *Microcapsules for flavoring oils* (21 CFR 172.230) and § 172.886 *Petroleum wax* (21 CFR 172.886) should be amended as requested in the amended petition. Because the use of the microcapsules containing the petroleum wax is not limited to encapsulating flavoring oils, FDA also concludes that the title and introductory text of § 172.230 should be amended to cover the broader category of flavoring substances.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that document may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701, 52 Stat. 1055-1056 as amended, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 172 is amended as follows:

1. Section 172.230 is revised to read as follows:

§ 172.230 Microcapsules for flavoring substances.

Microcapsules may be safely used for encapsulating discrete particles of flavoring substances that are generally recognized as safe for their intended use or are regulated under this part, in accordance with the following conditions:

(a) The microcapsules may be formulated from the following components, each used in the minimum quantity required to accomplish the intended effect:

(1) Substances generally recognized as safe for the purpose.

(2) One or more of the following components:

Component and Limitations
Succinylated gelatin—Not to exceed 15 percent by combined weight of the microcapsule and flavoring oil. Succinic acid content of the gelatin is 4.5 to 5.5 percent.
Arabinogalactan—Complying with § 172.610; as adjuvant.
Silicon dioxide—Complying with § 172.480; as adjuvant.

(3) In lieu of the components listed in paragraph (a)(2) of this section, the following components:

Component and Limitations
Glutaraldehyde—As cross-linking agent for insolubilizing a coacervate of gum arabic and gelatin.
n-Octyl alcohol—As a defoamer.

(4) In lieu of the components listed in paragraph (a)(2) and (3) of this section, the following component:

Component and Limitations
Petroleum wax—Complying with § 172.886. Not to exceed 50 percent by combined weight of the microcapsule and spice-flavoring substance.

(b) The microcapsules produced from the components listed in paragraph (a)(1), (2), and (3) of this section may be used for encapsulating authorized flavoring oils for use, in accordance with good manufacturing practice, in foods for which standards of identity established under section 401 of the act do not preclude such use, except that microcapsules formulated from components listed in paragraph (a)(2) of this section may be used only for encapsulating lemon oil, distilled lime oil, orange oil, peppermint oil, and spearmint oil for use in dry mixes for puddings and gelatin desserts.

(c) The microcapsules produced from the components listed in paragraph (a)(1) and (4) of this section may be used only for encapsulating authorized spice-flavoring substances for use, in accordance with good manufacturing practice, in frozen pizzas which are to be further processed by heat. Such pizzas shall bear labels or labeling including adequate directions for use to ensure heating to temperatures which will melt the wax to release the spice-flavoring substances.

2. In § 172.886, paragraph (d) is amended by adding the following new use:

§ 172.886 Petroleum wax.

* * * * *

(d) * * *

Use and Limitations
As a component of microcapsules for spice-flavoring substances.
In accordance with § 172.230 of this chapter.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before August 18, 1980 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a

hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective July 18, 1980.

(Secs. 201(s), 409, 701, 52 Stat. 1055–1056 as amended, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371))

Dated: July 9, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-21151 Filed 7-17-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Parts 175 and 176

[Docket No. 79F-0308]

Indirect Food Additives; 5-Hydroxymethoxymethyl-1-aza-3,7-Dioxabicyclo[3.3.0]-Octane, 5-Hydroxymethyl-1-aza-3,7-Dioxabicyclo[3.3.0]-Octane, and 5-Hydroxypoly[Methyleneoxy]Methyl-1-aza-3,7-Dioxabicyclo[3.3.0]Octane

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the food additive regulations to provide for the safe use of a mixture of 5-hydroxymethoxymethyl-1-aza-3,7-dioxabicyclo[3.3.0]-octane, 5-hydroxymethyl-1-aza-3,7-dioxabicyclo[3.3.0]-octane, and 5-hydroxypoly[methyleneoxy]methyl-1-aza-3,7-dioxabicyclo[3.3.0]octane as a preservative in the manufacture of articles intended for food-contact use. This action is based on a petition filed by Tenneco Chemicals.

DATES: Effective July 18, 1980; objections by August 18, 1980.

ADDRESS: Objections to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Notice was published in the Federal Register of October 2, 1979 (44 FR 56744), that a food additive petition (FAP 8B3420) had been filed by Tenneco Chemicals, P.O. Box 365, Piscataway, NJ 08854, proposing that § 175.105 *Adhesives* (21 CFR 175.105) and § 176.180 *Components of paper and paperboard in contact with dry food* (21 CFR 176.180) be amended to provide for the safe use of an aqueous solution containing 5-hydroxymethoxymethyl-1-aza-3,7-dioxabicyclo[3.3.0]-octane, 5-hydroxymethyl-1-aza-3,7-dioxabicyclo[3.3.0]-octane, and 5-hydroxypoly[methyleneoxy]methyl-1-aza-3,7-dioxabicyclo[3.3.0]octane as a preservative in the manufacture of articles used in packaging, transporting or holding foods.

FDA has evaluated data in the petition and other relevant material and concludes that the regulations should be amended to provide for the use of a mixture of 5-hydroxymethoxymethyl-1-aza-3,7-dioxabicyclo[3.3.0]-octane, 5-hydroxymethyl-1-aza-3,7-dioxabicyclo[3.3.0]-octane, and 5-hydroxypoly[methyleneoxy]methyl-1-aza-3,7-dioxabicyclo[3.3.0]octane as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701, 52 Stat. 1055–1056 as amended 72 Stat. 1784–1788 (21 U.S.C. 321s, 348, 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Parts 175 and 176 are amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVE COATINGS AND COMPONENTS

1. Part 175 is amended in § 175.105(c)(5) by inserting alphabetically a new item in the list of substances to read as follows:

§ 175.105 Adhesives.

* * * * *

(c) * * *

(5) * * *

List of substances	Limitations
* * * * *	
5-Hydroxymethoxymethyl-1-aza-3,7-dioxabicyclo[3.3.0]octane, 5-hydroxymethyl-1-aza-3,7-dioxabicyclo-[3.3.0] octane, and 5-hydroxypoly-[methyleneoxy]methyl-1-aza-3,7-dioxabicyclo[3.3.0] octane mixture..	For use only as an antibacterial preservative.
* * * * *	

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

2. Part 176 is amended in § 176.180(b)(2) by inserting alphabetically a new item in the list of substances to read as follows:

§ 176.180 Components of paper and paperboard in contact with dry food.

* * * * *

(b) * * *

(2) * * *

List of substances	Limitations
* * * * *	
5-Hydroxymethoxymethyl-1-aza-3,7-dioxabicyclo[3.3.0]octane, 5-hydroxymethyl-1-aza-3,7-dioxabicyclo-[3.3.0] octane, and 5-hydroxypoly-[methyleneooxy]methyl-1-aza-3,7-dioxabicyclo[3.3.0] octane mixture..	For use only as an antibacterial preservative.
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before August 18, 1980 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective July 18, 1980.

(Secs. 201(s), 409, 701, 52 Stat. 1055–1056 as amended 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371))

Dated: July 10, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-21293 Filed 7-17-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 176

[Docket Nos. 78F-0398 and 79F-0129]

Indirect Food Additives, Paper and Paperboard Components; Acrylamide and N-(Hydroxymethyl) Acrylamide

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration amends the food additive regulations to provide for the safe use of acrylamide and *N*-(hydroxymethyl) acrylamide as components of paper and paperboard. This action is based on two petitions filed by the American Cyanamid Co.

DATES: Effective July 18, 1980; objections by August 18, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A notice published in the Federal Register of December 26, 1978 (43 FR 60234) announced that a food additive petition (FAP 6B3242) had been filed by American Cyanamid Co., Wayne, NJ 07470, proposing to amend § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) to provide for the safe use of acrylamide and *N*-(hydroxymethyl) acrylamide as modifiers of styrene-butadiene copolymers used as components of paper and paperboard for food-contact use.

Another notice published in the Federal Register of June 29, 1979 (44 FR 37977) announced that a food additive petition (FAP 6B3244) had been filed by American Cyanamid Co., Wayne, NJ 07470, also proposing to amend § 176.170 (21 CFR 176.170) to provide for the safe use of *N*-(hydroxymethyl) acrylamide as a monomer in acrylic and vinyl acetate copolymers used as components of paper and paperboard for food-contact use.

FDA has evaluated data in the petitions and other relevant material and finds that data provided in the American Cyanamid Co. petitions are adequate to support safe use of the petitioned food additives, except for the use of *N*-(hydroxymethyl) acrylamide in copolymer components of paper and paperboard in contact with aqueous and fatty foods. Therefore, the following order limits the use of *N*-(hydroxymethyl) acrylamide in copolymer components of paper and paperboard to that used in contact with dry food. Given its limited use, the food additive is more appropriately regulated in § 176.180 *Components of paper and paperboard in contact with dry food* (21 CFR 176.180). The order also permits under § 176.170 the use of acrylamide as a modifier of styrene-butadiene copolymers used as components of paper and paperboard for food-contact use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701, 52 Stat. 1055-1056 as amended, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 176 is amended as follows:

1. In § 176.170(b)(2), by revising the item "Styrene-butadiene copolymers containing not more than 10 weight percent * * *" to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(b) * * *

(2) * * *

List of Substances and Limitations

* * * * *

Styrene-butadiene copolymers produced by copolymerizing styrene-butadiene with one or more of the monomers: acrylamide, acrylic acid, fumaric acid, 2-hydroxymethyl acrylate, itaconic acid, and methacrylic acid. The finished copolymers shall contain not more than 10 weight percent of total polymer units derived from acrylic acid, fumaric acid, 2-hydroxymethyl acrylate, itaconic acid and methacrylic acid, and shall contain not more than 2 weight percent of polymer units derived from acrylamide.

* * * * *

2. In § 176.180(b)(2), by alphabetically inserting in the list of substances under the item "Polymers: Homopolymers and copolymers of the following monomers" a new substance to read as follows:

§ 176.180 Components of paper and paperboard in contact with dry food.

* * * * *

(b) * * *

(2) * * *

List of Substances and Limitations

* * * * *

Polymers: Homopolymers and copolymers of the following monomers; basic polymer.

* * * * *

N-(Hydroxymethyl) acrylamide.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before August 18, 1980 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective July 18, 1980.

(Secs. 201(s), 409, 701, 52 Stat. 1055-1056 as amended, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371))

Dated: July 10, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-21290 Filed 7-17-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Parts 510 and 520

New Animal Drugs; Dichlorophene and Toluene Capsules

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations to reflect approval of a new animal drug application (NADA) filed by Pharmacaps, Inc., providing for safe and effective use of dichlorophene-toluene capsules for treating dogs and cats for certain helminth infections and

adding the firm to the list of approved NADA sponsors.

EFFECTIVE DATE: July 18, 1980.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Pharmacaps, Inc., P.O. Box 547, 1111 Jefferson Ave., Elizabeth, NJ 07207 filed an NADA (119-844) providing for use of dichlorophene and toluene capsules for treating dogs and cats for infections of certain ascarids, hookworms, and tapeworms. This product is a generic equivalent of a product that was the subject of a National Academy of Science—National Research Council (NAS/NRC), Drug Efficacy Study Group evaluation published in the Federal Register of February 1, 1969 (34 FR 1612). The NAS/NRC evaluated the product as effective. Provisions for use of the drug product are codified in 21 CFR 520.580.

Additionally, Pharmacaps, Inc., was not included in the list of sponsors of approved applications found in § 510.600(c) (21 CFR 510.600(c)). The regulations are amended to add this sponsor and their approval.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information supporting approval of this application is released for public examination at the Office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 520 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Pharmacaps, Inc., P.O. Box 547, 1111 Jefferson Ave., Elizabeth, NJ 07207	010888
* * * * *	

(2) * * *

Firm name and address	Drug labeler code
* * * * *	
Pharmacaps, Inc., P.O. Box 547, 1111 Jefferson Ave., Elizabeth, NJ 07207	010888
* * * * *	

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

2. In Part 520, § 520.580 is amended by revising paragraph (b)(1) to read as follows:

§ 520.580 Dichlorophene and toluene capsules.

* * * * *

(b) *Sponsors.* (1) For single dose only, see 000010, 000081, 000298, 000856, 010290, 010888, 011519, 011536, 011614, 015563, 017135, and 023851 in § 510.600(c) of this chapter.

* * * * *

Effective date. This amendment is effective July 18, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: July 10, 1980.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 80-21288 Filed 7-17-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Piperazine Adipate Tablets

AGENCY: Food and Drug Administration (FDA).

ACTION: Final rule.

SUMMARY: FDA amends the new animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Carson Chemicals, Inc., providing for use of piperazine adipate tablets in cats for the removal of the roundworm *Toxocara mystax*. In addition, the currently approved use of tablets in dogs and cats for removal of large roundworms is codified. The approved uses of the product comply with the conclusions of the NAS/NRC review for piperazine products.

EFFECTIVE DATE: July 18, 1980.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Carson Chemicals, Inc., P.O. Box 466, New Castle, IN 47362, filed a supplemental NADA (9-821) providing for use of piperazine adipate tablets for removal of *Toxocara mystax* from cats and for codification of the current approval for use of the tablet for removal of certain large roundworms from dogs and cats.

Provisions for use of a related product, Carson Chemicals' piperazine adipate powder, are codified in § 520.1801a (21 CFR 520.1801a). The conditions of use for both dosage forms are the same except for substituting a different roundworm species, *T. mystax*, for use in cats. The agency is approving this substitution without having required adequate and well-controlled investigations to demonstrate the tablets effectiveness against *T. mystax* in cats. The requirement for the investigation was waived under provision of § 514.111(a)(5)(vi) (21 CFR 514.111(a)(5)(vi)) on the basis that *T. mystax* is an additional roundworm species of the genus *Toxocara* found to be susceptible to treatment with piperazine salts by the National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group in their report published in the Federal Register of February 14, 1969. The NAS/NRC report omitted *T. mystax* because none of the products reviewed were labeled for use in infections of this species. In addition, the firm submitted literature citations supporting the drug's effectiveness against *T. mystax*. Accordingly, the regulations are amended to codify the approved use of this product and to indicate its effectiveness against *T. mystax* infections in cats.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the office of the Hearing Clerk (HFA-305), address above, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)), under

authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended by adding a new § 520.1801c to read as follows:

§ 520.1801c Piperazine adipate tablet.

(a) *Specifications.* Each tablet contains 454 milligrams of piperazine adipate (equivalent to 168 milligrams of piperazine base).

(b) *Sponsor.* See 011769 in § 510.600(c) of this chapter.

(c) *Special considerations.* Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

(d) *NAS/NRC status.* The conditions of use have been NAS/NRC reviewed and found effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter.

(e) *Conditions of use*—(1) *Amount.* 28 milligrams of piperazine base per pound of body weight.

(2) *Indications for use*—(i) *Dogs and puppies.* Removal of large roundworms (*Toxocara canis* and *Toxascaris leonina*).

(ii) *Cats and Kittens.* Removal of large roundworms (*Toxocara mystax* and *Toxascaris leonina*).

(3) *Limitations.* Administer orally or by crushing and mixing with ½ of the regular feed. Repeat treatment in 10 to 20 days to remove immature roundworms which may have entered the intestines from the lungs after the first dose. Laboratory fecal examinations should always be done to determine the need for treatment. Never worm a sick animal.

Effective date. July 18, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: July 10, 1980.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 80-21291 Filed 7-17-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Trichlorfon Boluses and Granules

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency amends the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Fort Dodge Laboratories providing for revised labeling for use of trichlorfon boluses as an anthelmintic in horses, and to codify the similar use of trichlorfon granules. These uses of the drug reflect the conclusions of the National Academy of Sciences/National Research Council (NAS/NRC) evaluation of the product.

EFFECTIVE DATE: July 18, 1980.

FOR FURTHER INFORMATION CONTACT: Henry C. Hewitt, Bureau of Veterinary Medicine (HFV-110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Fort Dodge Laboratories, Inc., Fort Dodge, IA 50501, filed a supplemental NADA (12-956) providing revised labeling for a Trichlorfon bolus used for treating certain helminth infections of horses. The NADA, originally approved February 9, 1962, provides for use of boluses containing 7.3, 10.9, 14.6, and 18.2 g of trichlorfon, and granules containing 18.2 and 36.4 g per package (bottle) for treating light yearlings, ponies, foals, and adult horses for infections of certain equine parasites (bots, ascarids, large and small strongyles, and pinworms). The granules were not for strongyle infections.

Fort Dodge Laboratories trichlorfon (Dyrex) tablets (boluses) and granules were among several pesticide chemicals with drug claims which were the subject of an NAS/NRC evaluation (DESI 901V) published in the Federal Register of September 5, 1970 (35 FR 14168). The NAS/NRC evaluation concluded, and the agency concurred, that trichlorfon was an effective equine anthelmintic for the removal of bots (*Gastrophilus intestinalis, Gastrophilus nasalis*), strongyles (*Strongylus*) large roundworms (*Ascaris equorum*) (*Parascaris equorum*), and pinworms (*Oxyuris equi*), the granules not being recommended for strongyle infections.

The evaluation stated that trichlorfon products must be subject of an approved new animal drug application and otherwise comply with the requirements of the Federal Food, Drug, and Cosmetic Act.

The Bureau of Veterinary Medicine advised Fort Dodge Laboratories that its file for trichlorfon (NADA 12-956) was incomplete and required additional information and label changes. The Bureau noted that trichlorfon was highly effective against bots, ascarids, and pinworms at 30 milligrams per kilogram (mg/kg) of body weight and above, and effective against strongyles at 80 mg/kg.

Fort Dodge Laboratories submitted a supplemental NADA providing revised labeling for the 10.9 and 18.2 g trichlorfon boluses and stated that the 7.3 and 14.6 g trichlorfon boluses and trichlorfon granules were no longer being marketed. The supplement is approved for the 10.9 and 18.2 g boluses. The regulations are revised to add a new section codifying NAS/NRC approved conditions of use of the 7.3, 10.9, 14.6, and 18.2 g boluses and 18.2 and 36.4 g bottles of trichlorfon granules.

Submission of applications for approval of identical products having the same conditions of use need not include certain types of efficacy data as specified by § 514.1(b)(8)(ii) or § 514.111(a)(5)(ii)(*a*)(*4*) of the animal drug regulations (21 CFR 514.1(b)(8)(ii) or 514.111(a)(5)(ii)(*a*)(*4*)). In lieu of such data, approval may require bioequivalency or similar data as suggested in the guidelines for submitting NADA's for NAS/NRC-reviewed generic drugs. These guidelines are available from the Hearing Clerk (HFA-305), Food and Drug Administration.

This NADA was approved prior to July 1, 1975. Therefore, a freedom of information summary is not required (see 21 CFR 514.11(e)(2)(i)). However, upon written request, a summary will be provided.

The Bureau of Veterinary Medicine has determined, under 21 CFR 25.24(d)(1) (proposed December 11, 1979; 44 FR 71742), that this action is of the type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended by adding new §§ 520.2520e and 520.2520f, to read as follows:

§ 520.2520e Trichlorfon boluses.

(a) *Specifications.* Each bolus contains either 7.3, 10.9, 14.6, or 18.2 g of trichlorfon.

(b) *Sponsor.* See 000856 in § 510.600(c) of this chapter.

(c) *Special considerations.* Trichlorfon is a cholinesterase inhibitor. Do not use this product on animals simultaneously with, or within 2 weeks, before or after treatment with or exposure to, neuromuscular depolarizing agents (i.e., succinylcholine) or to cholinesterase-inhibiting drugs, pesticides, or chemicals.

(d) *NAS/NRC status.* Use of this drug has been NAS/NRC reviewed and found effective. Applications for these uses

need not include effectiveness data as specified by § 514.111 of this chapter.

(e) *Conditions of use*—(1) *Amount.* 18.2 milligrams per pound of body weight, except for stongyles use 36.4 milligrams per pound of body weight.

(2) *Indications for use.* For horses for removal of bots (*Gastrophilus nasalis, Gastrophilus intestinalis*), large strongyles (*Strongylus vulgaris*), small strongyles, large roundworms (ascarids, *Parascaris equorum*), and pinworms (*Oxyuris equi*).

(3) *Limitations.* Do not fast horses before or after treatment. Treatment of mares in late pregnancy is not recommended. Surgery or any severe stress should be avoided for at least 2 weeks before or after treatment. Do not administer to sick, toxic, or debilitated horses. Not to be used in horses intended for use as food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 520.2520f Trichlorfon granules.

(a) *Specifications.* Each package contains either 18.2 or 36.4 g of trichlorfon.

(b) *Sponsor.* See 000856 in § 510.600(c) of this chapter.

(c) *Special considerations.* Trichlorfon is a cholinesterase inhibitor. Do not use this product on animals simultaneously with, or within 2 weeks before or after treatment with or exposure to neuromuscular depolarizing agents (i.e., succinylcholine) or to cholinesterase-inhibiting drugs, pesticides, or chemicals.

(d) *NAS/NRC status.* Use of this drug has been NAS/NRC reviewed and found effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter.

(e) *Conditions of use*—(1) *Amount.* 18.2 milligrams per pound of body weight.

(2) *Indications for use.* For horses for removal of bots (*Gastrophilus nasalis, Gastrophilus intestinalis*), large roundworms (ascarids, *Parascaris equorum*), and pinworms (*Oxyuris equi*).

(3) *Limitations.* Do not fast horses before or after treatment. Treatment of mares in late pregnancy is not recommended. Surgery or any severe stress should be avoided for at least 2 weeks before or after treatment. Do not administer to sick, toxic, or debilitated horses. Not to be used in horses intended for use as food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. July 18, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: July 10, 1980.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 80-21294 Filed 7-17-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification; Clotrimazole Cream

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) filed by Bayvet Division of Cutter Laboratories, Inc., providing for safe and effective use of clotrimazole cream for the treatment of certain fungal infections of dogs and cats.

EFFECTIVE DATE: July 18, 1980.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Bayvet Division of Cutter Laboratories, Inc., P.O. Box 390, Shawnee, KS 66201 filed an NADA (116-089) providing for use of clotrimazole cream for the topical treatment of fungal infections of dogs and cats caused by *Microsporum canis* and *Trichophyton mentagrophytes.*

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 524 is amended by adding a new § 524.450 to read as follows:

§ 524.450 Clotrimazole cream.

(a) *Specifications.* Each gram of cream contains 10 milligrams of clotrimazole.

(b) *Sponsor.* See 000859 in § 510.600(c).

(c) *Conditions of use.* (1) *Amount.* Apply ¼-inch ribbon of cream per square inch of lesion once daily for 2 to 4 weeks.

(2) *Indications of use.* For the treatment of fungal infections of dogs and cats caused by *Microsporum canis* and *Trichophyton mentagrophytes.*

(3) *Limitations.* Wash hands thoroughly after use to avoid spread of infection. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. July 18, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: July 10, 1980.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 80-21289 Filed 7-17-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 540

Penicillin Antibiotic Drugs for Animal Use; Ampicillin Trihydrate Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a supplemental new animal drug application (NADA) filed by Beecham Laboratories, providing an additional limitation for safe and effective use of an oral ampicillin tablet for treatment of bacterial infections in dogs.

EFFECTIVE DATE: July 18, 1980.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Beecham Laboratories, 501 5th St., Bristol, TN 27620, filed a supplemental NADA (55-042) providing revised labeling for use of ampicillin (as ampicillin trihydrate), for treatment of dogs with susceptible bacterial infections. The labeling is revised to state that if no improvement is seen after 5 days of use, discontinue treatment, reevaluate diagnosis, and revise therapy. The product is codified as 21 CFR 540.107a. This action provides for an added limitation for use of the product. Under the Bureau of Veterinary Medicine's supplemental approval policy (December 23, 1977; 42 FR 64367), this action is a Category II approval which did not require reevaluation of the safety and effectiveness data in the

parent application. The regulations are amended to reflect this approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512 (i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b (i) and (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84), Part 540 is amended in § 540.107a by revising paragraph (c)(3)(ii) to read as follows:

§ 540.107a Ampicillin trihydrate tablets.

* * * * *

(c) * * *

(3) * * *

(ii) Dosage of 5 mg per pound of body weight, at 8-hour intervals, 1 to 2 hours prior to feeding, to be continued 36 to 48 hours after all symptoms have subsided. If no improvement is seen within 5 days, stop treatment, reevaluate diagnosis, and change therapy.

* * * * *

Effective date: July 18, 1980.

(Sec. 512 (i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b (i) and (n)).)

Dated: July 11, 1980.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 80-21292 Filed 7-17-80; 8:45 am]

BILLING CODE 4110-03-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2602

Payment of Premiums

Correction

In FR Doc. 80–21162 appearing at page 47423 in the issue for Tuesday, July 15, 1980, the effective date is incorrect. The effective date should read as set forth below:

"DATE: As indicated on the 1980 revision of Form PBGC–1, this change is effective for plan years beginning after December 31, 1979".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining

Reclamation and Enforcement

30 CFR Parts 715, 816 and 817

Disposal of Excess Spoils and Durable Rock Fills; Notice of Opening of Comment Period

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM) U.S. Department of the Interior.

ACTION: Comment period on final interpretive rule for 30 CFR 715.15(d), 816.74 and 817.74.

SUMMARY: This notice announces a public comment period on an interpretive rule published on April 16, 1980, to clarify the regulations providing for alternative methods of disposal of hard rock spoil.

DATE: Written comments must be received by 5 p.m. on or before August 18, 1980.

ADDRESS: Written comments should be submitted to: Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 153, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

Copies of all correspondence, minutes and documents noted below are available for review and copying during normal business hours at: Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 153, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Raymond E. Aufmuth, Physical Scientist, Technical Services Division, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior. Telephone: (202) 343–4264.

SUPPLEMENTARY INFORMATION: On April 16, 1980, the Department of the Interior published an interpretive rule clarifying the regulations providing for alternative methods for the disposal of hard rock spoil. 45 FR 25998 (1980). The April 16, 1980, rule interpreted regulations published on March 13, 1979, 44 FR 15311–15463 and on May 25, 1979, 44 FR 30610–34. In particular, the April 16, 1980, regulation interpreted the term "rock" and "hard rock" spoil. In addition, it stated that the slake durability and slake index tests identified in 30 CFR 715.15(d) were to be used not only at the time the rock was removed from the inplace strata, but also at the point of placement of the spoil into the fill. Finally, the interpretive rule clarified the Secretary's retained authority to enforce the performance standards in 30 CFR 715.15(d) even after a State permit had been granted allowing the alternate disposal method.

The rule published on April 16, 1980, was not intended to establish any new substantive requirements or do any more than explain the Office of Surface Mining's interpretation of previously published rules. See, for example, Falcon Coal Meeting Minutes, January 7, 1980; Sequence of Events, Falcon Coal Company (undated); Letter to Gene Brandenburg, Department of Natural Resources, State of Kentucky from David Short, Regional Director, OSM (March 5, 1980). The Department's regulations allow interpretive rules of this kind to be published without comment. 43 CFR 14.5(c)(2). The Department's regulations state that in deciding whether to allow public comment on an interpretive rule, the agency should consider the impact on State and local governments, whether the rule is complex or pervasive, whether the rule changes an existing interpretation, and whether there is practical difficulty of compliance with the new rule. The Department, using these rules, had decided not to request public comment on this rule for the following reasons.

First, the rule would have no impact on State or local governments, since it was merely restating an existing requirement. In addition, the rule required no action of State and local governments and explicitly stated "this rule does not directly affect the validity of permits issued prior to its operation." 45 FR 26000. Second, the Department determined that the effect of the rule was not complex or pervasive. The rule defines terms which have a commonly accepted engineering meaning such as rock and hard rock spoil, and were well based in the literature used to promulgate the original rule. Third, the rule did not change an existing interpretation. The standards expressed in the interpretive rule were those which OSM believed were included in the original rule and which had been expressed to companies in enforcement cases. At no time had OSM enunciated a different position. Fourth, because there was no change in the existing OSM position, there should have been little practical difficulty of compliance with the new rule.

Despite this analysis, the Department of the Interior has received comments from the American Mining Congress/ National Coal Association Joint Committee which challenge both the

rule, and the procedures used to implement the rule. In an exchange of correspondence beginning with a May 27, 1980, letter from the Joint Committee, the Office of Surface Mining and the Joint Committee discussed the possibility of deferring the effective date of the rule pending public comment. After consideration of the Joint Committee's position, OSM declined to suspend the effective date of the rule. (Letter from Walter Heine, Director, OSM, to the Joint Committee, June 12, 1980). It did so primarily because it had not received any technical information which showed that the interpretive rule was improper, or that it was inconsistent with the literature published at the time the substantive regulation was adopted.

The correspondence does reflect, however, a concern on the part of the Joint AMC/NCA Committee with the procedures used to promulgate the rule and its continued desire to have an opportunity to have formal public comment on the rule. As previously explained in this notice, OSM does not believe that public comment on this rule was legally required. In keeping with its general commitment to seeking public involvement to the fullest possible, OSM has nonetheless decided to hold a formal public comment period on the interpretive rule. The purpose of this comment period is to allow expanded discussions between concerned members of the public and OSM concerning the interpretive regulation. At the close of the public comment period, OSM will decide whether to suspend the interpretive rule, keep the interpretive rule in its current form, or change or propose in some way changes to the substantive rule issued in 1979. The interpretive rule remains in effect until further notice and compliance with the rule is required in the interim. This notice should not be construed, in any way, to be a weakening of OSM's belief that the interpretive rule was properly issued both procedurally and substantively.

The Office of Surface Mining specifically desires the comments of those companies who are directly affected by the interpretive rule. It is particularly interested in determining whether the interpretive rule is perceived as causing operational difficulties, or posing other problems which would unnecessarily reduce productivity or increase costs.

The Department of Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14. The Department of Interior has also determined that opening the interpretive rule for comment does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969.

Dated: July 11, 1980.

Carl C. Close,

Assistant Director, Office of Surface Mining, State and Federal Programs.

[FR Doc. 80-21328 Filed 7-17-80; 8:45 am]

BILLING CODE 4310-05-M

SELECTIVE SERVICE SYSTEM

32 CFR Parts 1611, 1612, 1613, 1615, 1617, 1619, 1621

Selective Service Regulations: Administration of Registration

AGENCY: Selective Service System.

ACTION: Regulations pursuant to section 13(b) of the Military Selective Service Act (50 U.S.C. App. 463(b)).

SUMMARY: The Selective Service System is amending Selective Service Regulations (32 CFR Chapter XVI) to provide revised procedures for the administration of registration.

EFFECTIVE DATE: July 18, 1980.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, 600 E Street, N.W., Washington, D.C. Phone: (202) 724-0895.

SUPPLEMENTARY INFORMATION: These amendments to Selective Service Regulations are published pursuant to section 13(b) of the Military Selective Service Act, (50 U.S. Code App., sections 463(b)), and Executive Order 11623. These Regulations implement the Military Selective Service Act, as amended (50 U.S. Code App., sections 451 *et seq.*).

The President's Proclamation 4771 of July 2, 1980—Registration Under the Military Selective Service Act appears at 45 FR 45247 (July 3, 1980).

On June 16, 1980, the Director of Selective Service published these amendments of Selective Service Regulations at 45 FR 40577 of June 16, 1980. Such publication complied with the publication requirement of section 13(b) of the Military Selective Service Act (50 U.S.C. App. sections 451 *et seq.*) in that more than thirty days have elapsed subsequent to such publication during which period comments from the public have been received and considered; and I certify that I have requested the views of officials named in section 2(a) of Executive Order 11623 and none of them has timely requested that the matter be referred to the President for decision.

By virtue of the authority vested in me by the Military Selective Service Act, as amended (50 U.S.C. App. sections 451 *et seq.*) and Executive Order 11623, the Selective Service Regulations, constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations, are hereby amended, effective July 18, 1980, as follows:

32 CFR Chapter XVI

PARTS 1611, 1612, 1613 [Revoked]

1. Parts 1611, 1612, and 1613 are revoked.

2. Part 1615 is established to read as follows:

PART 1615—ADMINISTRATION OF REGISTRATION

Sec.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.* and Executive Order 11623.

§ 1615.1 Registration.

(a) Registration under selective service law consists of (1) Completing of the Registration Card prescribed by the Director of Selective Service by a person required to register and (2) the recording of the information furnished by the registrant on his Registration Card in the records (master computer file) of the Selective Service System. Registration is completed when both of these actions have been accomplished.

(b) The Director of Selective Service will furnish to each registrant a verification notice that includes a copy of the information pertaining to his registration that has been recorded in the records of the Selective Service System together with a correction form. If the information is correct, the registrant should take no action. If the information is incorrect, the registrant should forthwith furnish the correct information to the Director of Selective Service. If the registrant does not receive the verification notice within 90 days after he completed a Registration Card, he shall advise in writing the Selective Service System, 600 E Street, NW., Washington, D.C. 20435, of the applicable facts.

§ 1615.2 Responsibility of Director of Selective Service in Registration.

Whenever the President by proclamation or other public notice fixes a day or days for registration, the Director of Selective Service shall take the necessary steps to prepare for registration and, on the day or days fixed, shall supervise the registration of those persons required to present themselves for and submit to registration. The Director of Selective Service shall also arrange for and supervise the registration of those persons who present themselves for registration at times other than on the day or days fixed for any registration.

§ 1615.3 Registration procedures.

Persons required by selective service law and the Proclamation of the President to register shall be registered in accord with procedures prescribed by the Director of Selective Service.

§ 1615.4 Duty of persons required to register.

A person required by selective service law to register has the duty.

(a) To complete the Registration Card prescribed by the Director of Selective Service and to record thereon his name, date of birth, sex, Social Security Account Number (SSAN), current mailing address, permanent residence, telephone number, date signed, and signature; and

(b) To submit for inspection evidence of his identity at the time he submits his completed Registration Card to a person authorized to accept it. Evidence of identity may be a birth certificate, motor vehicle operator's license, student's identification card, United States Passport, or a similar document.

§ 1615.5 Persons not to be registered.

No person who is not required by selective service law or the Proclamation of the President to register shall be registered.

§ 1615.6 Selective service number.

Every registrant shall be given a selective service number. The Social Security Account Number will not be used for this purpose.

§ 1615.7 Evidence of registration.

The Director of Selective Service Shall issue to each registrant written evidence of his registration. The Director of Selective Service will replace that evidence upon written request of the registrant, but such request will not be granted more often than once in any period of six months.

§ 1615.8 Cancellation of registration.

The Director of Selective Service may cancel the registration of any particular registrant or of a registrant who comes within a specified group of registrants.

§ 1615.9 Registration Card or Form.

For the purposes of these regulations, the terms Registration Card and Registration Form are synonomous.

PARTS 1617, 1619 [Revoked]

§§ 1621.2, 1621.3 [Revoked]

3. Parts 1617 and 1619 and sections 1621.2 and 1621.3 are revoked.

Issued: July 17, 1980.

Bernard Rostker,

Director.

[FR Doc. 80-21837 Filed 7-17-80; 9:35 am]

BILLING CODE

CENTRAL INTELLIGENCE AGENCY

32 CFR Part 1900

Public Access to Documents and Records and Declassification Requests

AGENCY: Central Intelligence Agency.

ACTION: Final rule.

SUMMARY: The Central Intelligence Agency (CIA) amends its regulations relating to public access to documents and records by clarifying policies and procedures regarding historical research requests. Based upon the Agency's experience in handling requests from historical researchers for access to classified information held in the file systems, a modification of the regulation is necessary. The amendment will allow the CIA to process such requests with less burden upon its limited resources. This document also corrects the text by setting forth language which was inadvertently omitted when first promulgated.

EFFECTIVE DATE: July 18, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Charles E. Savige, Phone: (703) 351-5659.

SUPPLEMENTARY INFORMATION: This final rule was promulgated as a proposed rule on May 6, 1980, and comments were invited. On May 21, 1980, this Agency received a memorandum from the Director, Information Security Oversight Office, recommending the deletion of the word "rare" in line 11 of the promulgation. This recommendation has been accepted and the word is deleted. There were no other comments received.

In consideration of the foregoing, Part 1900, Chapter XIX of Title 32, Code of Federal Regulations, is amended by revising paragraph (a) of 1900.61 to read as follows:

§ 1900.61 Access for historical research.

(a) Any person engaged in a historical research project may submit a request, in writing, to the Coordinator to be given access to information classified pursuant to an Executive order for purposes of that research. Any such request shall indicate the nature, purpose, and scope of the research project. It is the policy of the Agency to consider applications for historical research privileges only in those instances where the researcher's needs cannot be satisfied through requests for access to reasonably described records.

* * * * *

This amendment to the rules and regulations of the Central Intelligence Agency is adopted under the authority of Section 102 of the National Security Act of 1947, as amended (50 U.S.C. 403), the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a et seq.), Executive Order 12065 (3CFR, 1978 Comp., p. 190), the Freedom of Information Act, as amended (5 U.S.C. 552), and the Federal Records Management Amendments of 1978 (Sec. 4, Pub. L. 94-575, 90 Stat. 2723).

Don I. Wortman,

Deputy Director for Administration.

[FR Doc. 80-21701 Filed 7-17-80; 8:45 am]

BILLING CODE 6310-02-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1541-5]

Approval and Promulgation of Implementation Plans; Massachusetts Revisions; Correction

AGENCY: U.S. Environmental Protection Agency.

ACTION: Correction, final rule.

SUMMARY: This document corrects a final rule approving revisions to the Massachusetts Implementation Plan appearing in the Federal Register on June 17, 1980 (45 FR 40987).

FOR FURTHER INFORMATION CONTACT: Margaret McDonough, USEPA Region 1, (617) 223-4448.

SUPPLEMENTARY INFORMATION:

In FR Doc. 80-18136 appearing at page 40987 in the Federal Register of June 17, 1980 the following change should be made: On pages 40988 and 40989 subparagraph (28) of § 52.1120, paragraph (c) is corrected to read: subparagraph (29).

Dated: July 10, 1980.

William R. Adams, Jr.,

Regional Administrator, Region I.

[FR Doc. 80-21710 Filed 7-17-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 81

[FRL-1532-5]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations: Illinois

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This rulemaking changes the State attainment status relative to the carbon monoxide (CO) National Ambient Air Quality Standards (NAAQS) for a portion of the City of Moline located in Rock Island County, Illinois. On November 15, 1979, a redesignation of this area from attainment to nonattainment of the primary and secondary CO NAAQS was proposed in the Federal Register (44 FR 65791), and public comment was solicited.

EFFECTIVE DATE: August 18, 1980.

FOR FURTHER INFORMATION CONTACT: Judy Kertcher, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886-6038.

SUPPLEMENTARY INFORMATION: Pursuant to section 107(d) of the Clean Air Act (ACT), the State of Illinois designated areas within the State as attainment or nonattainment for the NAAQS. Notice of these designations was published in the Federal Register on March 3, 1978 (43 FR 8962) and October 5, 1978 (43 FR 45993). Rock Island County, Illinois was designated as an attainment area for CO (43 FR 8962, 8990). Under section 107(d)(5) of the Act, an area's designation is subject to revision whenever sufficient data becomes available to warrant such redesignation.

On July 19, 1979, the Illinois EPA submitted a recommendation to redesignate a portion of Rock Island County as a nonattainment area for carbon monoxide. The portion recommended for redesignation was an area within the City of Moline bounded by and including Seventh Avenue from 12th Street to 22nd Street on the southeast; 23rd Street from 7th Avenue to 3rd Avenue and continuing along that line to the Mississippi River on the northeast; 12th Street from 7th Avenue to 3rd Avenue and continuing along that line to the Mississippi River on the southwest; the Mississippi River Bank from the 12th Street alignment to the 23rd Street alignment on the northwest.

IEPA's recommendation was based upon the occurrence in this area of violations of the maximum allowable 8-hour average CO concentration of 9.0 parts per million.

On November 15, 1979, (44 FR 65791), USEPA proposed approval of the redesignation and invited public comment. Two individuals submitted comments on the proposed changes. This section of the notice discusses the comments received and USEPA's response.

Public Comment: Both individuals commented that the data upon which the designation was based might not be representative of the area. Only one monitor showing violations is located in the Central Business District (CBD). The downtown includes both business and industrial areas, and the traffic patterns in other areas of the CBD may differ from those near the monitor. Further, construction work in the downtown area during 1977–1980 has caused the disruption of traffic signal interconnections, and altered traffic flow.

USEPA Response: Hotspot Analysis of the Moline CBD indicates that approximately fourteen of the intersections in the downtown area have a potential to be associated with violations of the 8-hour average CO NAAQS. Several of the intersections in the area indicated a higher potential for violation than the monitored intersection. Construction projects and the resultant disruption of traffic flow patterns at the monitored intersection may contribute to the high monitor readings. Since these impacts have occurred over a long period of time they must be taken into account. Based on the hotspot analysis, the analysis of traffic patterns in Moline and the large average daily traffic counts obtained throughout the Moline CBD, USEPA believes the nonattainment designation of the Moline CBD is justified.

Public Comment: Both commentors thought that the stop-and-go traffic in the vicinity of the monitor might have caused non-representative high readings.

USEPA Response: As discussed above, USEPA does not agree that the readings are not representative. Further, the presence of stop and go traffic is not grounds for the rejection of the nonattainment designation.

USEPA Final Determination: After reviewing the State's recommendation, the monitored data and the public comments received, USEPA has detemined that the nonattainment designation of a portion of the City of Moline is justified. Therefore, pursuant to section 107 of the Clean Air Act, USEPA approves the redesignation submitted by Illinois as proposed in the Notice of Proposed Rulemaking on November 15, 1979 at 44 FR 65791. The redesignation is effective (30 days from publication). The nonattainment designation requires a revision to the Illinois State Implementation Plan within 9 months of final USEPA action on the designation change. The plan revision should contain an assessment of the causes of the nonattainment plus strategies and enforceable regulations adequate to attain the NAAQS by the statutory attainment date specified in section 172(a) of the Act.

USEPA has determined that this document is not a significant regulation and does not require preparation of a regulatory analysis under Executive Order 12044 (43 FR 12661).

Dated: July 11, 1980.

Douglas Costle,

Administrator.

PART 81—AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

Subpart C—Section 107 Attainment Status Designations

Section 81.314 of Part 81 of Chapter I, Title 40, Code of Federal Regulations is amended as follows. In the table for "Illinois—CO" the entry for AQCR 69 is revised to read as follows:

§ 81.314 Illinois.

* * * * *

Illinois—CO

Designated area	Does not meet primary standards	Cannot be classified better than national standards
* * * * *		
AQCR 69:		
Rock Island County		
City of Moline (area bounded by 7th Avenue from 12th Street to 22nd Street on the southeast; 23rd Street from 7th Avenue to 3rd Avenue and continuing along that line to the Mississippi River on the northeast; 12th Street from 7th Avenue to 3rd Avenue and continuing along that line to the Mississippi River on the Southwest; the Mississippi River bank from the 12th Street alignment to the 23rd Street alignment on the northwest).	X	
Remainder of City of Moline		X
All other townships		X
Carrol County		X
Henry County		X
Mercer County		X
Whiteside County		X
* * * * *		

[FR Doc. 80-21630 Filed 7-17-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 81

[FRL 1539-7]

State of Texas: Section 107 Attainment Status Designations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending the *Texas* ozone chart (O_x) by adding two Air Quality Control Regions (AQCRs) numbered 217 and 218. These AQCRs are listed in the Revised July 1, 1978 Title 40 Part 60 to 99 Code of Federal Regulations (CFR). On July 1, 1979 a revised publication of Title 40 Parts 81 to 99 CFR was published and the AQCRs 217 and 218 were inadvertently not included in this publication. Therefore, EPA is requesting these two AQCRs to be included in the next publication of Title 40 CFR.

EFFECTIVE DATE: July 18, 1980.

FOR FURTHER INFORMATION CONTACT: Jerry Stubberfield, Chief Implementation Plan Section, Air and Hazardous Materials Division, Environmental Protection Agency Region 6, Dallas, Texas 75270, (214) 767-1518.

SUPPLEMENTARY INFORMATION:

Chart O_x is amended by adding AQCRs 217 and 218 to read as follows:

§ 81.344 Texas.

Texas—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
AQCR 217:		
Bexar County	X	
Remainder of AQCR		X
AQCR 218:		
Ector County	X*	
Remainder of AQCR		X

Dated: June 16, 1980.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 80-21521 Filed 7-17-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 86

[FRL 1538-3]

Denial of Petition for Reconsideration of the Particulate Emissions Regulation for Diesel Fueled Light-Duty Vehicles and Light-Duty Trucks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Denial of Petition for Reconsideration.

SUMMARY: On May 5, 1980, General Motors Corporation (GM) petitioned the Administrator to reconsider the standard for particulate emissions from diesel fueled light-duty vehicles and light-duty trucks promulgated by EPA on March 5, 1980 [45 Fed. Reg. 14496]. The petitioner alleged: (1) that EPA did not adequately consider California's 1982 passenger car standards for oxides of nitrogen in promugating the 1982 Federal particulate standard, (2) that EPA could not find the 1985 Federal particulate standard to be technologically feasible, and (3) that EPA's diesel exhaust hydrocarbon measurement technique should be modified to exclude nonreactive hydrocarbons. In a June 27, 1980, letter and supporting memorandum sent to Dr. Betsy Ancker-Johnson, Vice President for GM's Environmental Activities Staff, the Administrator denied the request for reconsideration. The text of the Administrator's response is published below.

FOR FURTHER INFORMATION CONTACT: Maureen D. Smith, Office of Mobile Source Air Pollution Control (ANR-455), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. (202) 426-2514.

Note.—Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before September 16, 1980. Under Section 307(b)(2) of the Clean Air Act, the requirements of which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Dated: July 3, 1980

David G. Hawkins,

Assistant Administrator for Air, Noise and Radiation.

U.S. Environmental Protection Agency,
Washington, D.C. June 27, 1980.

Dr. Betsy Ancker-Johnson,
Vice President, Environmental Activities Staff, General Motors Corp., General Motors Technical Center, Warren, Mich.

Dear Dr. Ancker-Johnson: I would like to respond to General Motor's (GM's) May 5, 1980, petition for reconsideration of the particulate emission standards for diesel fueled light-duty vehicles and light-duty trucks (45 Fed. Reg. 14496, March 5, 1980). GM requested reconsideration of (1) the 1982 model year particulate standard as applicable to vehicles to be sold in California, (2) the 1985 model year particulate standard, and (3) the exhaust hydrocarbon (HC) measurement technique. GM also proposed several revisions to the particulate rule:

1. Eliminate the simultaneous requirement to meet the Federal 0.6 gpm particulate standard and the California 1.0 gpm NOx standard in the 1982 model year for vehicles built for sale in the State of California either by revoking the waiver of Federal preemption granted by EPA for the California light-duty diesel emission standards or by exempting the light-duty diesel vehicles built for sale in the State of California from the Federal particulate standard of 0.6 gpm.

2. Defer the implementation of the 0.2 gpm particulate standard for the 1985 model year until a clear and technologically supportable determination can be made that such a standard is both feasible and appropriate.

3. Revise the light-duty diesel hydrocarbon measurement technique such that only the normally gaseous exhaust hydrocarbons are measured and compared to the exhaust hydrocarbon standards to determine compliance.

I am denying GM's request that I reconsider and revise the particulate rule for the reasons summarized below and set out more fully in the enclosed memorandum. GM has not presented any evidence which was not already considered by EPA during the rulemaking process. EPA's determinations with regard to the particulate standards and the hydrocarbon measurement technique are consistent with the applicable statutory provisions and are fully supported by evidence contained in the rulemaking record.

GM asserts that California's emission standards were not adequately considered in the particulate rule. However, EPA is neither required nor authorized to consider State standards in determining the technological feasibility of Federal standards, and properly based the 1982 particulate standards on the technological feasibility of meeting the 0.6 grams per vehicle mile (gpm) particulate level in conjunction with applicable Federal requirements. GM's proposal that California vehicles be exempt from the 1982 Federal particulate standard would be contrary to the statutory scheme of Federal preemption, since the stringency of proposed Federal standards would be dictated by existing State standards.

While EPA does have authority to revoke the waiver of Federal preemption granted to California relating to standards for light-duty diesel vehicles, GM has not provided evidence to show that California's 1982 passenger car standards are technologically infeasible given the 1982 Federal particulate rule, nor has EPA determined in the particulate rule that meeting the 1982 particulate standard in California is technologically infeasible. Therefore, it would be inappropriate for EPA to take any action at this time with regard to standards applicable in California in 1982.

GM's assertion that EPA's determination on the technological feasibility of the 1985 Federal particulate standard does not reasonably satisfy the statutory criteria is unsupported by the evidence contained in the rulemaking record. EPA concluded from available evidence on lead time requirements, technological feasibility, cost and other factors, that the basic technology necessary to meet the 1985 standards is well understood, and that the engineering improvements necessary to apply the technology most likely could be made by the 1984 model year. EPA provided an additional

model year of lead time in order to allow manufacturers to optimize application of the necessary technology before the standard becomes effective in 1985. Since GM has provided no evidence to show that the lead time provided for development and application of the necessary technology is inadequate, EPA will not consider revising the standards at this time.

GM's objection to the exhaust hydrocarbon measurement technique, which was made previously during the comment period on the proposed rule, raises an issue which already has been resolved by EPA and the courts in the context of an earlier rulemaking. GM, in asserting that EPA should not measure those hydrocarbons which GM claims have been shown to remain adsorbed on the diesel particulate and to be unreactive in photochemical oxidation, seeks a significant relaxation of the HC emission standard as applied to diesels. EPA has consistently viewed the HC standard for light-duty vehicles set by Congress in section 202(b) as being based on the measurement of all HC exhaust emissions. This interpretation was upheld by the U.S. Court of Appeals for the District of Columbia Circuit in *Ford Motor Co.* v. *EPA*. If EPA changed the measurement procedure as requested by GM, this, in effect, would reduce the stringency of the statutory HC standard as applied to diesels.

Even if EPA did have the authority to exclude certain types of hydrocarbons (i.e., those that do not contribute to atmospheric ozone formation), the scientific bases for GM's conclusion that the HC adsorbed on particulates do not contribute to ozone formation is, at this point, conjecture. GM's evidence, submitted previously during the rulemaking process, was deemed by EPA to be inconclusive. Therefore, GM's evidence does not establish a basis for revision of the existing test procedure.

Accordingly, GM's petition is denied.

Sincerely yours,

Douglas M. Costle.

Enclosure:

RATIONALE FOR EPA DENIAL OF GENERAL MOTORS CORPORATION PETITION FOR RECONSIDERATION OF THE STANDARD FOR EMISSION OF PARTICULATES FROM DIESEL FUELED LIGHT-DUTY VEHICLES AND LIGHT-DUTY TRUCKS

On May 5, 1980, General Motors Corporation (GM) submitted a petition for reconsideration of the *Standard for Emission of Particulate Regulation for Diesel Fueled Light-Duty Vehicles and Light-Duty Trucks* (45 FR 14496, March 5, 1980). GM requested reconsideration of: (1) the 1982 Federal 0.6 gpm particulate standard as applicable to vehicles to be sold in California, (2) the 1985 Federal 0.2 gpm particulate standard, and (3) the exhaust hydrocarbon measurement technique. GM also proposed several revisions to the particulate rule:

1. Eliminate the simultaneous requirement to meet the Federal 0.6 gpm particulate standard and the California 1.0 gpm NO_x standard in the 1982 model year for vehicles built for sale in the State of California either by revoking the waiver of Federal preemption granted by EPA for the California light-duty diesel emission standards or by exempting the light-duty diesel vehicles built for sale in the State of California from the Federal particulate standard of 0.6 gpm.

2. Defer the implementation of the 0.2 gpm particulate standard for the 1985 model year until a clear and technologically supportable determination can be made that such a standard is both feasible and appropriate.

3. Revise the light-duty diesel hydrocarbon measurement technique such that only the normally gaseous exhaust hydrocarbons are measured and compared to the exhaust hydrocarbon standards to determine compliance.

GM has not argued either that it was impracticable to raise its objections during the public comment period or that the grounds for the objections arose after the period for public comment.[1] No evidence has been presented which was not already submitted to EPA during the rulemaking process, and GM has not claimed that the information EPA relied on in promulgating the rule has changed in any way. As set out below, the actions taken by EPA in the final rule are consistent with the requirements of the Act, and are supported by evidence contained in the rulemaking record. Moreover, the issues raised in GM's petition do not provide a sufficient basis for EPA to consider revising the final rules. Accordingly, GM's petition is denied.

I. The 1982 Particulate Standard

A. EPA is neither required nor authorized to assess the technological feasibility of meeting California standards in conjunction with proposed Federal standards.

GM contends that the requirement in section 202(a)(3)(A)(iii) of the Clean Air Act, as amended (Act), that EPA consider technological feasibility and available lead time in determining particulate standards, includes consideration of the manufacturers' capability of meeting California's 1982 model year 1.0 gpm NO_x standard in conjunction with the Federal particulate standards. GM proposes that the final particulate rules be revised by exempting vehicles built for sale in California from the 1982 particulate standard in order to correct this alleged deficiency.

The language and legislative history of the Act give absolutely no indication that EPA must consider this technological feasibility of meeting California standards in establishing the appropriate stringency of Federal standards. In fact, it would be inconsistent with the statutory scheme to base Federal standards on such a consideration, since the end result would be that the stringency of the Federal standards would be dictated to some extent by the level of the California standards. Congress made provision in section 209(b) of the Act for the State of California to obtain a waiver of Federal preemption to enforce its own standards in order to permit that State to address its pervasive and acute air pollution problem.[2] This provision was designed to provide California with flexibility to deal with air pollution problems in the State; it was never intended to inhibit the ability of the Federal government to address national air pollution problems. As discussed more fully below, if compliance with both the California NOx standard and the Federal diesel particulate standard is technologically infeasible, it is the California standard, and not the Federal standard, that must be reconsidered.

B. Creating an exemption for vehicles sold in California would be inappropriate.

There is no express authority in the Act to carry out GM's suggestion that the Agency exempt vehicles sold in California from the particulate standard. Indeed, the language and legislative history of the Act suggest that such an action would be inappropriate.

Congress clearly envisioned EPA promulgation of nationally uniform particulate emission standards. EPA is authorized under section 202(a)(3)(A)(iii) of the "National Emissions Standards Act", i.e., Title II of the Act, to prescribe regulations for particulate emissions from classes or categories of vehicles manufactured during and after model year 1981. For EPA to exempt California vehicles from the Federal particulate standards would be inconsistent with the statutory scheme under section 202(a)(3)(A)(iii), as well as with the concept of uniformity implied in the

[1] GM apparently has not relied on section 307(d)(7)(B) of the Clean Air Act, as amended, in requesting reconsideration. Under that section, the Administrator must convene a proceeding for reconsideration of the rule if such objection is of central relevance to the outcome of the rule, and if the person raising the objection can meet either of the above criteria. Thus, even if GM had relied on section 307(d)(7)(B) of the Act, if would have failed to meet the specified criteria.

[2] *See* H.R. Rep. No. 294, 95th Cong., 1st Sess. 302 (1977).

Federal preemption provision of section 209(a) of the Act.[3]

While it is possible for California to adopt a particulate standard different from the Federal standard, the State must determine first that its standards will be, in the aggregate, at least as protective of public health and welfare as the applicable Federal standards.[4] This requirement indicates that Congress intended for Federal standards to apply in California unless the State makes the protectiveness determination that Congress expressly left to California's judgment.[5] It would be inappropriate for the Federal government to substitute its judgment for that of California's by unilaterally removing the applicability of the Federal standard.

C. EPA did not conclude in the particulate rule that NOx waivers would be necessary in order to meet the Federal particulate standard.

In support of its request for revision of the particulate rules as they relate to California vehicles, GM argues that EPA presumed that the 1.0 gpm NO_x standard could be waived in order to allow compliance with the Federal 1982 particulate standard, and argues further that EPA concluded that it is not now feasible to meet "reasonable" particulate emission control requirements while at the same time meeting stringent NO_x control requirements such as the 1.0 gpm California standard. GM argues that since the least stringent NOx standard allowed for 1982 California vehicles is 1.0 gpm, revision of the standards as they relate to California vehicles is necessary.

GM has mischaracterized EPA's conclusions regarding the feasibility of meeting the particulate standard. EPA did not find in the particulate rulemaking that a NO_x waiver was necessary to allow light-duty diesel (LDD) manufacturers to meet the particulate standard in 1982. EPA concluded that all manufacturers would be able to comply with a 0.6 gpm particulate standard in 1981 with currently available designs; however, because there was remaining insufficient certification leadtime, the standard would not be effective until 1982.[6] EPA based its findings on technological feasibility, in part, on the availability of the NO_x waiver for 1981–84 model year LDD's, in recognition of the upward pressure placed on particulate emissions by NO_x control technology.[7] However, because a NO_x waver may be granted only if a manufacturer can show that it is unable to meet the applicable emission standards in each model year unless the waiver is granted,[8] the availability of NO_x waivers is determined by a separate assessment of the technological feasibility of achieving those standards.[9]

EPA did not conclude that LDD manufacturers would need a NO_x waiver to meet the particulate standard, but only that if the need for a waiver were demonstrated, it would be available. As stated in the preamble to the particulate rulemaking, several manufacturers were unable to show that the NO_x waiver was necessary for certain engine families, and certain waiver requests had been denied.[10] In short, EPA did not assume that LDD manufacturers would need a NO_x waiver in order to meet the 1982 particulate standard.

D. Although reconsideration of the decision to waive Federal preemption would be appropriate if evidence were submitted to show that California's 1982 standards are technologically infeasible, no evidence has been presented, nor does such evidence exist in the particulate rulemaking record.

Although EPA has concluded not to reconsider the Federal particulate standard, as it properly was based on consideration of all Federal requirements, it is possible that, under certain circumstances, the Administrator would reconsider his June 14, 1978, waiver decision regarding California's 1982 model year passenger car standards. The manufacturers bear the burden of demonstrating that conditions which would have warranted denial of California's waiver request presently exist as a result of subsequently adopted Federal requirements.[11] If manufacturers can show that there is insufficient lead time in which to develop the requisite technology to meet California's standards in conjunction with new Federal requirements, EPA may reconsider the waiver of Federal preemption for California to enforce its own standards.[12]

GM has suggested that I revoke the waiver of Federal preemption granted to California for its standards for model year 1982 light-duty diesel vehicles.[13] GM's statement that "revoking the waiver of Federal preemption is consistent with the requirements for granting that waiver since EPA is required to deny the waiver if the standards for which preemption is sought to be waived are not technologically feasible" is inaccurate. Under section 209(b) of the Act, I am required to grant the waiver of Federal preemption unless the parties opposing the waiver convince me that the waiver request should be denied.[14] Thus, my technological feasibility determination in granting the June 14, 1978, waiver was

[3] *See* S. Rep. No. 403, 90th Cong., 1st Sess. 33 (1967).

[4] Section 209(b) of the Act requires the Administrator to waive Federal preemption for California to enforce its standards unless he can find (1) that the State's protectiveness determination is arbitrary and capricious; (2) the State does not need such standards to meet compelling conditions; or (3) the State's standards are not technologically feasible.

[5] *See* H.R. Rept. No. 294, 95th Cong., 1st Sess. 301–302 (1977). Congress also directed the Administrator not to overturn California's judgment lightly, or to substitute his judgment for that of the State. *Id.* at 302.

[6] "Regulatory analysis, Light-Duty Diesel Particulate Regulations," February 20, 1980 [hereinafter "Regulatory Analysis"], 38–41.

[7] *See* 45 Fed. Reg. 14496, 14497 (March 5, 1980).

[8] 42 U.S.C. 7521(b)(6)(B) (Supp. 1 1977); Diesel NOx Waiver Guidelines, 43 Fed. Reg. 30341 (July 14, 1978); Diesel NOx Waiver Consolidated Decision, 45 Fed. Reg. 5480 (January 23, 1980).

[9] Manufacturers must show a need for the NOx waiver on the basis of the Monte Carlo analysis. *See* 43 Fed. Reg. 30341, 30343 (July 14, 1978).

[10] 45 Fed. Reg. 14496, 14497 (VW denied waiver request for the Audi due to presentation of insufficient data upon which to base a waiver determination. Regulatory Analysis at 41 (Peugeot denied NOx waiver due to insufficient data); *see also* 45 Fed. Reg. 5480, 5487 (January 23, 1980) (GM, JD–B, and Volvo denied waivers on similar grounds)). Upon reapplication, Volkswagen subsequently received waivers for its Rabbit, Dasher and Audi 500 engine families, and Peugeot received a waiver for one of its engine families, the XD2S family. *See* 45 Fed. Reg. 34718 (May 22, 1980).

[11] A discussion of the manufacturers' burden of proof in California waiver proceedings is set out in several of the Administrator's decisions to waive Federal preemption for California to enforce standards and/or enforcement procedures. *See*, e.g., 42 Fed. Reg. 25755, 25756 (May 19, 1977); 43 Fed. Reg. 25729, 25734 (June 14, 1978). *See also Motor and Equipment Manufacturers Ass'n v. EPA*, —— F.2d —— (D.C. Cir., Aug. 3, 1979), *cert. denied*, —— U.S. —— (May 19, 1980).

[12] Even if the manufacturers can establish that some diesel engine families cannot meet the California NOx standard, EPA is not necessarily required to vacate its earlier decision. If, on the basis of the record, EPA could not conclude that any limitation caused by the standards would cause basic market demand to go unsatisfied, then vacating the earlier decision would be inappropriate. In considering manufacturers' claims in the California waiver proceedings for 1979 and later model passenger car standards that the standards may result in a restricted vehicle offering incapable of meeting basic market demand in California, EPA could not conclude on the basis of the record that any limitation would in fact occur or that any such limitation would cause basic market demand not to be satisfied. *See* 43 Fed. Reg. 25729, 25734 (June 14, 1978). EPA also noted that the question of the applicability of *International Harvester v. Ruckelshaus* to a California waiver situation was set forth in a previous waiver decision published on October 7, 1978 (41 Fed. Reg. 44209, 44212). *See id.* at 25734, n. 101.

[13] 43 Fed. Reg. 25729 (June 14, 1978).

[14] *See Motor Vehicle Manufacturers Association v. EPA*, ——F. 2d—— (D.C. Cir., August 3, 1979), *cert. denied*, ——U.S.—— (May 19, 1980).

based on the manufacturers' inability to show that the requisite technology could not be developed within the remaining lead time, rather than an affirmative finding on the technological feasibility of California's standards.[15] Revoking the California waiver would not be appropriate unless the manufacturers were able to show that changed circumstances have rendered invalid my previous determination on the technological feasibility of California's standards, and that the State's 1982 standards are no longer technologically feasible when viewed in conjunction with applicable Federal requirements. GM has not made such a showing in the particulate rulemaking proceedings or in its petition for reconsideration.

GM's reliance on EPA's statements in the particulate rulemaking record is insufficient to show that California's 1.0 gpm NOx standard is technologically infeasible in light of the 1982 Federal particulate standard. While EPA did conclude in its Regulatory Analysis that "NO_x control to 1.0 g/mi (0.62 g/km) is not feasible at this time with acceptable durability and particulate emissions control for *all engine families*," [16] (emphasis added), this does not necessarily mean that vehicles intended for sale in California could not meet both California's 1982 standards and the Federal particulate standard. EPA's conclusion was made in the context of the lead time requirements and risk factors inherent in producing complying vehicles on a nationwide basis. Whereas it may be infeasible for all engine families to meet the particulate standard in conjunction with the statutory 1.0 gpm NO_x standard under nationwide production requirements, it is very possible that many—if not all—engine families can be produced for the more limited 1982 California market while meeting a 1.0 gpm NO_x standard.

This very distinction was made by one LDD manufacturer in its NO_x waiver application, in which it indicated that it planned to introduce in the 1982 California market LDD's meeting the California 1982 NO_x standard and the (then proposed) 0.6 gpm particulate standard.[17] In fact, EPA granted the 1982 NO_x waiver to GM and other applicants, in part, to allow them "to concentrate on emission control technology development, application and field assessment on a limited number of [1982 California] vehicles, and use these results for transfer to their Federal vehicles for model year 1983."[18] EPA also concluded that there was no reason to believe that the technologies described by the applicants to achieve 1.0 gpm NO_x would not be available by 1982 in California.[19] Since GM has submitted no new evidence on this issue, there remains no reason to believe either that both standards cannot be met or that any limitation on LDD production in 1982 will occur.[20]

II. The 1985 Particulate Emission Standard

GM has contended that EPA's determination on the technological feasibility of the 1985 standards of 0.20 gpm for passenger cars and 0.26 gpm for light-duty trucks does not reasonably satisfy the statutory criteria which require appropriate consideration of technological feasibility, lead time, cost, noise, energy and safety factors. In particular, GM has contended that any particulate standard which contemplates use of a regenerative trap-oxidizer must be judged premature, and that based on the evidence provided by GM and others for the rulemaking record, the 1985 particulate standards are not justified in relation to the statutory requirements.

However, as discussed more fully below, the rulemaking record clearly establishes the technological feasibility of the standards. EPA analyzed in detail the questions of lead time requirements, cost, noise, energy and safety in establishing the standards.[21] EPA's analysis included consideration of comments and data from the light-duty diesel manufacturers and others.[22] In particular, based upon all of the relevant evidence, EPA concluded that the after-treatment technology necessary for most manufacturers to meet the standards most likely could be incorporated into mass production by the 1984 model year.[23] Nevertheless, EPA provided an additional model year to reduce the economic risk inherent in applying new technology to a vehicle fleet.[24] Since the level of the particulate standards was based upon the lowest level of particulate emissions that could be expected from the highest emitting diesels, EPA determined that no light-duty diesels would be forced out of production as a result of the particulate rules.[25]

As discussed below, since the basic technology is well understood, and adequate lead time has been provided to refine the technology and to allow for its application, there is no basis for GM's claim that EPA's determination is based on speculative analysis. EPA's determination was based, in part, on information and estimates provided by the industry and experts in the field, and GM has provided no new information to show why EPA's judgment is invalid. Since the rulemaking record supports the 1985 standard set by the Agency and GM has not presented any new information in its petition for reconsideration concerning the feasibility of that standard, reopening the rulemaking at this time would be totally inappropriate.[26]

A. The record fully supports EPA's determination that the needed technology can be successfully applied by 1985.

1. Passenger Car Standard.

GM argues that any particulate standard which contemplates use of a regenerative trap-oxidizer must be judged premature and not technologically feasible. However, EPA did not base its technological feasibility determination wholly upon successful development of regenerative trap-oxidizers. First, EPA found that other measures expected to be taken by 1985, such as engine design modification, derating, turbo-charging and down-sizing are expected to reduce particulate emissions by 15–20 percent in even worst case vehicles, so that all light-duty diesels could meet a 0.50 gpm standard by 1984 or 1985 even without after-treatment.[27] Second, EPA's conclusion that after-treatment control would be required to meet the 0.20 gpm particulate standard in 1985 [28] contemplated serveral technological alternatives. EPA explored the potential for application of three after-treatment devices currently being developed by the industry—catalytic converters, traps and trap-oxidizers.[29] Although EPA expected trap-oxidizers would be the preferred technology, simple exhaust traps with external restoration were found to be a feasible alternative particulate control technology if trap-

[15] 43 Fed. Reg. 25729, 25734 (June 14, 1978).

[16] Regulatory Analysis, 33.

[17] NOx Waiver Application submitted by Daimler-Benz A. G., June 1979, I-3-4.

[18] 45 Fed. Reg. 5480, 5485, n. 81 (January 23, 1980).

[19] *Id.*

[20] *See supra* note 12.

[21] *See* EPA, Summary and Analysis of Comments on the Notice of Proposed Rulemaking for the Control of Light-Duty Diesel Particulate Emissions from 1981 and Later Model Year Vehicles," October 1979 [hereinafter "Analysis of Comments"]; 45 Fed. Reg. 14496–14504 (March 5, 1980).

[22] *See id.*

[23] Regulatory Analysis, 53; 45 Fed. Reg. 14496, 14498 (March 5, 1980).

[24] *Id.*

[25] *See* Analysis of Comments, 43.

[26] *See supra*, note 1.

[27] Regulatory Analysis, 46–47.

[28] Regulatory Analysis, 47; 45 Fed. Reg. 14490, 14497 (March 5, 1980) (Volkswagen's Rabbit was found not to require after-treatment).

[29] Regulatory Analysis, 47–49.

oxidizers were rejected on technical or economic grounds.[30]

Although manufacturers are free to pursue any or all of these technologies in meeting the 1985 standard, GM has objected only to that portion of EPA's conclusion pertaining to trap-oxidizers. GM contends that there does not exist "a reasonable body of evidence to indicate that the basic necessary technology is known and that the remaining technological problems can be resolved in the time remaining before the standard becomes effective." To the extent that GM is referring to the evidence on development and application of trap-oxidizer technology, the record contains ample support for EPA's judgment that this technology can be used to meet the 1985 standard.

The record shows that the basic concept of the trap-oxidizer is well understood, and that the improvements necessary for successful application involve resolution of engineering problems rather than technological barriers.[31] Since resolution of those problems will depend primarily upon allocation of sufficient resources rather than scientific or technical breakthroughs, there is no factual support for GM's assertion that the "basic concept" is insufficiently developed on an experimental basis.[32]

With regard to each of the three critical issues on the feasibility of this technology—(1) collection efficiency, (2) regeneration and (3) durability—EPA assessed the current state of development and evaluated the type of refinements necessary to successfully apply the technology.[33] Since the requisite collection efficiencies already have been demonstrated by several materials,[34] and several regeneration techniques have been used successfully for short-term tests, EPA concluded that the most critical issue is whether the efficiency and regeneration mechanism can be maintained over the useful life of the vehicle.[35]

EPA does not disagree with GM's observation that there have been no overall system demonstration tests over extended mileage;[36] however, the record does provide reasonable evidence of the potential for successful operation over extended mileage by the 1984 model year. For example, GM's own data, which GM claims EPA has relied on improperly to conclude that the technology can be successfully developed in time, provides a strong basis for concluding that there is the potential for successful regeneration initiation and control over extended mileage with acceptable collection efficiencies. Although GM's 1000-mile load up and incineration test was, according to GM, derived from an experimental system operated on a dynamometer at a simulated road load condition of only 45 mph and the regeneration events were manually controlled, the results did show that air intake throttling, as one regeneration technique, could be used on a repetitive basis while actually improving collection efficiency.[37] EPA did point out that further research on throttling is needed, and that further development of other systems that would be used as controller units in the regenerative process is necessary.[38] However, the type of development necessary involves manufacturers' choosing the exact trap-oxidizer design appropriate for their vehicles, since there is little question as to the mechanisms required for successful and durable operation.[39] EPA even set out several alternative trap-oxidizer designs capable of achieving the requisite particulate reductions with varying degrees of success, noting that the exact design may vary for each manufacturer.[40]

With regard to trap durability, EPA did rely on GM's Opel vehicle test as demonstrating the best trap durability reported to EPA, since the trap survived 12,800 miles with collection efficiency at that mileage similar to its zero-mile efficiency of 55 percent.[41] EPA did indicate, as cited by GM that "*as of this time,* no design has proven to have the required collection efficiency over the desired length of time." (Emphasis added.)[42] However, EPA also stated that it was convinced by the progress achieved to date, and the continuing research in the areas of regeneration and durability, that a successful trap oxidizer design could be developed within the next 1½ to 2 years.[43]

EPA's inability to cite successful overall system demonstration tests over extended mileage, which GM argues shows that experimental development has not progressed sufficiently, does not prevent EPA from concluding that the present state of the art can be improved sufficiently by 1985 to allow all manufacturers to comply with the 0.20 gpm standard. In fact, if the record reflected such successful demonstration tests, there would be no reason to provide for the 1½ to 2 years of design development lead time included in the final rules.

GM also argues that further development is needed in selection of materials with adequate trapping efficiency and durability, definition of the required trap size and configuration and other areas, and that "until further experimental knowledge on these major development needs is obtained, it is totally impossible to specify when a successful system will be developed for passenger cars and light-duty trucks." However, these are factors which each manufacturer must consider in choosing the appropriate design for its particular vehicles rather than areas in which generally applicable basic development is necessary. EPA has considered the lead time claimed to be needed by each manufacturer both to complete the development phase for a design change and to integrate the design change into mass production.[44] Thus, the need for manufacturers' development lead time to accomplish the design selection tasks cited by GM was considered. Based on the manufacturers' lead time estimates and EPA's own understanding of the lead time requirements for improvements necessary to apply the technology in-use, EPA concluded that there is a strong likelihood that trap-oxidizers will be feasible for vehicle application by the 1984 model year.[45]

EPA based its conclusion, in part, on GM's estimated lead time requirements,[46] and GM has not indicated why EPA's projected rate of progress in trap-oxidizer development, given the types of improvements necessary, is unreasonable. Therefore, EPA's determination on the technological feasibility of the standards, which included lead time, cost and other factors, is supported by the record and totally consistent with the requirements of the Act.

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[30] *Id.*, 49. The use of simple exhaust traps has been explored for many years.

[31] *See* Regulatory Analysis, 50–53; *see* Analysis of Comments, 32–36.

[32] *See* 45 Fed. Reg. 14496, 14497–98 (March 5, 1980).

[33] *See* Regulatory Analysis, 46–53; 45 Fed. Reg. 14496, 14497–98 (March 5, 1980).

[34] EPA expects that trap collection efficiencies of approximately 67 percent will be feasible on trap oxidizers in the near future, and the worst-case manufacturer is expected to need ony a 60 percent reduction to meet the 1985 standard. *See* Regulatory Analysis, 48, 53.

[35] *See* Regulatory Analysis, 50–53; 45 Fed. Reg. 14496, 14497–98 (March 5, 1980).

[36] EPA stated that improvements must be made in the durability of the trapping material in the trap-oxidizer since it should last at least 100,000 miles. Regulatory Analysis, 51.

[37] *See* Regulatory Analysis, 50. Air intake throttling is used to elevate the exhaust temperature to the requisite levels for incineration.

[38] *See id. 50–51.*

[39] *See* Regulatory Analysis, 50–53.

[40] *See* Analysis of Comments, 92–96; *see* Regulatory Analysis, 50–51.

[41] *See* Regulatory Analysis.

[42] *See id.*, 52.

[43] *See id.*

[44] *See id.*, 52–53.

[45] See *id.*, 53.

[46] *See id.*, 52.

2. Light-Duty Truck Standard

GM argued that EPA failed to make any specific assessment of the potential of this technology to perform successfully in light-duty truck operation. GM claims that EPA only modified the passenger car particulate standard to 0.26 gpm for light-duty trucks to account for the difference in expected uncontrolled emission rate, concluding that "EPA expects the very same technologies that will be used to meet the light-duty vehicle standards to be applicable to light-duty trucks." However, GM has given no indication of the basis for its objection to either EPA's comparison of light-duty truck technologies to those of light-duty vehicles, or EPA's modification to the passenger car standard to account for differences in emission-related factors.

EPA originally proposed that the light-duty truck particulate standards be equal to the light-duty vehicle standards since there was no data available to justify a separate truck standard.[47] It has been established in previous EPA rulemakings that manufacturers usually apply passenger car emission control technologies to light-duty trucks in order to comply with similar standards, since the engine configurations and type of use are very similar.[48] For instance, GM's diesel light-duty trucks utilize the same diesel engines that are used in the GM 4,500 pound light-duty vehicles.[49] Therefore, it was a reasonable assumption that the same particulate control technology could be used to reduce the truck emissions as well.

However, data subsequently submitted in comments on the proposal convinced EPA that the increased inertia weight and road load settings of light-duty trucks required promulgation of a 1985 particulate standard that would be 20 percent greater than the corresponding light-duty vehicle standard.[50] EPA added a 10 percent particulate cushion for the trucks to account for less rapid downsizing and use of smaller engines expected to occur in passenger cars.[51] Therefore, EPA's adoption of a 1985 particulate standard for trucks which is 30 percent greater than the corresponding passenger car standard is reasonable in light of the evidence contained in the rulemaking record.

3. Cost and Other Considerations

GM contends that EPA's technological feasibility determination does not reasonably satisfy the statutory criteria which require appropriate consideration of technological feasibility, lead time, cost, noise, energy and safety factors. However, GM has made no reference to EPA's consideration of cost, noise, energy and safety factors other than claiming that EPA grossly underestimated the probable cost of applying a regenerative trap-oxidizer system, and therefore, that EPA's conclusion that the particulate standards are cost effective is invalid.

EPA is not required to find that the particulate standards are cost effective when compared to other particulate emissions controls,[52] but need only give appropriate consideration to the cost of developing and applying the requisite technology. EPA gave extensive consideration to the costs imposed by the regulations, by developing a methodology to provide a detailed analysis of the costs imposed on each segment of the industry, by considering and incorporating manufacturers' estimates, and by gathering independent estimates on the manufacturing costs of emission control equipment.[53]

GM's complaint that EPA's "underestimated" costs of the trap-oxidizer system appear to be based on earlier cost estimates made for catalytic converter technology applied to gasoline engines without any direct estimate of diesel emission control technology costs, is inaccurate. In order to calculate the fleetwide average costs, as well as the costs to both the largest and smallest manufacturers for the first five years of trap-oxidizer production, EPA calculated the cost of the various components which together form the trap-oxidizer system and applied its "revised retail cost methodology" to the estimates.[54] Since the primary cost of the system is derived from the trap itself, which no manufacturer has produced yet to provide a sample cost estimate, EPA approximated the trap cost from the current cost of a pelleted oxidation catalyst.[55] Neither GM nor any other manufacturer objected to this approximation in their comments on the proposal.[56] Nevertheless, EPA found from more recent information that the most promising trap designs were more similar to monolithic catalysts, and that in some cases actual monolithic substrates were being used for prototype trap testing. EPA's expert consultant developed a formula for determining the retail price equivalent of a trap from the cost of the monolithic catalyst, and considered a range of possible trap designs and sizes, as well as other necessary components, to calculate the final cost range.[57]

In contrast to EPA's detailed cost analysis, GM's cost estimates, submitted to EPA during the comment period, were not supported by any data or analysis. GM's criticisms of several of EPA's specific component cost estimates, which were based primarily upon industry estimates, also were unsupported.[58] Therefore, EPA's cost estimates provided a reasonable basis for EPA's conclusions regarding the costs to be imposed on manufacturers and consumers as a result of the regulations.

B. The manufacturers' need for adequate lead time and certainty as to future emissions standards requires that EPA promulgate the 1985 model year standard at this time.

GM argues that any particulate standard that contemplates use of a regenerative trap-oxidizer must be judged premature and not technologically feasible, based upon its allegation that it is impossible to specify when a successful system will be developed for passenger cars and light-duty trucks. This argument is contrary not only to the technological evidence contained in the particulate rulemaking record, but also to the stated needs of GM and other diesel manufacturers regarding lead time and specific goals to be achieved through their development efforts.

In response to EPA questions on lead time requirements, GM stated that 2½ to 3 years production lead time would be required "after an acceptable method is defined."[59] Other manufacturers' production lead time estimates ranged from 1½ to 3 years.[60] However, since the time estimates were forecast from the time an acceptable design is chosen, the controlling lead time factor is the extent to which the manufacturers aggressively pursue development of trap-oxidizer designs.

[47] *See id.*, 53–54; 44 Fed. Reg. 6650 (February 1, 1979) (notice of proposed rulemaking for diesel particulate standards).

[48] *See*, e.g., preamble to proposal to amend light-duty truck emission standards for 1978 and later model years, 41 Fed. Reg. 6279 (February 12, 1976).

[49] *See* Regulatory Analysis, 58.

[50] *See id.*, 54–58.

[51] *See id.*, 58.

[52] *See* 45 Fed. Reg. 14496, 14499 (March 5, 1980).

[53] *See* Analysis of Comments, 68–121.

[54] *See id.*, 83–98. EPA revised its original estimate of the cost per vehicle in applying the preferred after-treatment technology, trap-oxidizers, based on the component costs estimated by Leroy H. Lindgren in his study "Cost Estimation for Emission Control Related Components/Systems and Cost Methodology Description," (Rath and Strong for EPA), March 1978, EPA–460/3–78–002 [Hereinafter "Lindgren Study"].

[55] *See id.*, 83–84.

[56] *See id.*, 83.

[57] Lindgren Study, 145.

[58] *See* Analysis of Comments, 68, 91–92.

[59] *See* Regulatory Analysis, 52–53.

[60] *See id.*, 52.

EPA found in the particulate rule that:

> Particulate emissions are a classic economic externality for the automotive industry. . . . Experience has shown the greatest emission control development work to have taken place when direct regulatory incentives were in place.[61]

Since the rate of industry development of acceptable trap-oxidizer designs is primarily a function of the regulatory requirements established for future model years, GM's assertion that "it is impossible to specify when a successful system will be developed" ignores the disincentive created by the marketplace for development and application of trap-oxidizer systems. Therefore, EPA's current promulgation of the 1985 standard operates to "encourage a feasible strategy that might otherwise be ignored", by providing the necessary incentive for selection of acceptable designs.[62] Based upon information and statements submitted by the manufacturers, EPA established a reasonable time frame of 2–2½ years for completion of the design development phase, and added 2–2½ years of production lead time for compliance with the 0.20 gpm standard.[63] This provides ample opportunity for manufacturers to "improve, test and apply" the technology before the effective date of the standard.[64]

EPA's promulgation of long-range target emission standards addresses not only the manufacturers' estimates of production lead time requirements,[65] but also the expressed need for certainty regarding the specific emissions control goals to be achieved in each model year. For example, in EPA proceedings on GM's request for waiver of the statutory 1.0 gpm NO_x standard under Section 202(b)(6)(B) of the Act, GM indicated that a major constraint on its ability to focus on development of the requisite technology to meet a 1.0 gpm NO_x standard was that it did not know what the standards were to be in the Federal program.[66] GM specifically cited the particulate standards as a constraint in its uncertainty regarding the "targets that [GM] is designing for."[67] GM's reference to the uncertainty created by unknown design targets and its specific reference to the proposed particulate standard support EPA's early promulgation of the 1985 model year 0.20 gpm particulate standard.

C. Compliance with other emission standards will not prevent successful application of the after-treatment technology in 1985.

GM argues that "[t]ime required to resolve the successful application of this experimental concept is further complicated by sequentially more severe emission standards which are scheduled to apply to light-duty diesel vehicles over the next few years." GM stated, "in the passenger car case, new emission standards occur each year which require significant development effort," and specifically cited, along with the 1985 particulate standard, the 1.0 gpm NOx standard which must be met in California in 1982 and nationwide in 1983, is diminishing its ability to concentrate on the long term need to simultaneously lower NO_x and particulate emissions.

GM's argument is without merit, since the long term goal of reducing both NO_x and particulate emissions is being made possible through the gradual phase in of more advanced technologies necessary to meet the increasingly stringent standards. Although Congress mandated that all light-duty vehicles meet a 1.0 gpm NO_x standard nationwide in 1981,[68] EPA has waived that standard for certain 1981–82 diesel engine families under the section 202(b)(6)(B) diesel NOx waiver provision.[69] For the 1982 model year, EPA took into account the risks inherent in applying the more advanced NO_x control technology on a national scale, as well as the fact that the manufacturers would be required to apply that technology at least on a limited scale in 1982 California diesel cars to meet its 1.0 gpm NOx standard.[70] Therefore, the "increasingly stringent" NOx requirements cited by GM are merely the result of EPA's efforts to allow the diesel manufacturers to gain limited production and in-use experience before applying the 1981 Federal NO_x standard to diesel passenger cars.

Furthermore, EPA considered the applicability of the 1.0 gpm NO_x standard in its promulgation of the 0.2 gpm particulate standard for the 1985 model year. EPA concluded that the NOx-particulate trade-off which results from currently available NO_x control technology will decrease as the relationship becomes better understood, and that other NO_x control techniques which will not necessarily increase particulates, and may even reduce them, will be implemented.[71]

D. GM's request for reconsideration and withdrawal of the 1975 particulate standard is premature.

Since GM is unable to support its assertions regarding EPA's technological feasibility determination, it would be premature for EPA to reconsider the 1985 particulate rules at this time. No evidence has been presented to show that the necessary technology will not be available by the time it is needed, and that compliance with the standards will present unreasonable cost, safety, energy, or other problems.

If, notwithstanding the evidence in the record, the time frame provided for completion of the development phase proves, at a later time, to be inadequate, additional time could be provided and the standards revised accordingly. Since the decision whether to provide more lead time to complete the development phase and whether to revise the standard would be made well in advance of the effective date of the standard, the likelihood that any manufacturer would be harmed by such revision is significantly reduced.[72]

III. Hydrocarbon Measurement Technique

GM has requested that the diesel exhaust hydrocarbon measurement technique be revised substantially to measure only those hydrocarbons that are gaseous behind a filter at 125°F. This request is based on GM's contention that EPA's measurement technique incorrectly measures hydrocarbon

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[61] 45 Fed Reg. 14496, 14498 (March 5, 1980).

[62] *Id.*

[63] *Id.; See* Regulatory Analysis, 52–53.

[64] *Cf. International Harvester Co. v. EPA*, 48 F.2d 615, 628–629.

[65] In their comments on EPA's projection that trap-oxidizers could be a viable technology by the 1983 model year, Volkswagen stated that the earliest possible introduction date for trap-oxidizers is the 1985 model year, and GM indicated that, based on the current status of its trap-oxidizer program, there was a possibility of 1985 model year introduction. *See* Analysis of Comments, 40–41.

[66] *See* Transcript of Proceedings in the matter of NO_x Diesel Waiver Hearing. Volume 2, June 19, 1979 [hereinafter "June 19, 1979, NOx Transcript"], 113–117.

[67] *Id.*, 114.

[68] 42 U.S.C. 7521(b)(1)(B) (Supp. 1977).

[69] 45 Fed. Reg. 5480 (January 23, 1980); 45 Fed. Reg. 34718 (May 22, 1980).

[70] *See*, e.g., 45 Fed. Reg. 5480, 5485–5487 (January 23, 1980). It should be noted that California's 1982 model passenger car standards have been in place since June 14, 1978.

[71] *See* Regulatory Analysis, 53; 45 Fed. Reg. 14496, 14498 (March 5, 1980). One such technique is intake throttling, which GM has used in its development efforts to meet the 1.0 gpm NOx standard and which, according to GM, reduces both NOx and particulates. *See* June 19, 1979, NOx Transcript, 170–171.

[72] *Cf. International Harvester Co. v. EPA*, 478 F.2d 615 (D.C. Cir. 1973), where the Court indicated that a "wrong decision" on technological feasibility could not be remedied by a relaxation of the standards at a later hour due to the likely detrimental impact to manufacturers who tooled up to meet a higher standard than would ultimately be required. 478 F.2d at 637–638. The present situation is readily distinguishable from that described in *International Harvester* because there, the decision to relax the standards would have occurred after the production sequence was set in motion, whereas the 1985 particulate standard would be revised several years prior to the effective date.

exhaust by including hydrocarbons that allegedly do not contribute to atmospheric formation of photochemical oxidants. GM contends that hydrocarbons adsorbed on the particulates do not engage in atmospheric chemistry reactions, and cited data submitted as part of comments on the proposed rulemaking which allegedly confirm its statement that adsorbed hydrocarbons "are not part of the exhaust HC (gaseous) concern for oxidant formation." GM has proposed that the HC measurement technique be revised to utilize the particulate measurement filter, which operates near ambient conditions, as the separator of gaseous and particulate emissions. GM claims that this change to the measurement technique should be made immediately since GM's data shows a difference in measured HC levels of 38 percent.

That portion of the test procedure which GM is objecting to—the use of a heated exhaust gas sampling system for purposes of measuring HC emissions—was raised previously by GM during the comment period on the proposed particulate rule.[73] EPA chose to retain the "heated" hydrocarbon sampling system, which continued EPA's preexisting practice of heating diesel gas streams to prevent condensation of the diesel HC, thereby assuring measurement of all hydrocarbons.[74] GM has presented no new data or information to support its request for reconsideration of EPA's decision to retain the "heated" HC measurement method. EPA already has considered GM's arguments and data on the reactivity of certain hydrocarbons during the rulemaking process, and has concluded that (1) GM's data were based on unrealistic tests, and (2) in any event, the stringency of the particulate rule is not affected by the HC measurement method.[75]

GM has not claimed that the test procedure, as modified, has imposed any new requirement with regard to compliance with the HC standard, or that this procedure affects its ability to comply with the particulate standards.[76] Rather, GM is objecting to EPA's continued measurement of all hydrocarbons for purposes of compliance with the statutory HC standard. Although EPA questions the appropriateness of GM's requesting such a change in the HC measurement technique in the context of the particulate rulemaking, we have set out below the reasons for denying GM's request.

A. In enacting section 202(b) of the Act, Congress intended to regulate hydrocarbon emissions on the basis of total hydrocarbon exhaust.

GM has requested that EPA use the particulate measurement filter, which operates at 125° F, in measuring diesel exhaust HC emissions, in order to exclude from the measurement those hydrocarbons GM claims to be photochemically unreactive.

Such a suggestion is contrary to the intent of Congress in enacting the 1977 Amendments. As the United States Court of Appeals for the District of Columbia Circuit recognized in *Ford Motor Co. v. EPA*, ——F.2d——(July 2, 1979), in enacting section 202(b) of the Act, Congress intended to limit HC emissions based on measurement of all hydrocarbons.[77] The Court upheld the hydrocarbon standard promulgated by EPA for 1980 and later model year gasoline and diesel light-duty vehicles, which was based on the measurement of all hydrocarbons, including such nonreactive hydrocarbons as methane.[78]

The language and legislative history of the Act indicate that Congress intended the HC emissions standard to be applied to diesel powered light-duty vehicles no differently from application of the standard to gasoline vehicles under section 202(b). Under that section, *all* light duty vehicles are required to meet the specified percentage reduction in HC emissions from the baseline model year, which EPA has determined to be 0.41 gpm.[79] Congress explicitly referenced the 0.41 gpm standard when it amended the Act in 1977, implicitly recognizing EPA's determination of the numerical value on the basis of total HC emissions, and EPA's application of the numerical total HC standard to diesel powered light-duty vehicles as well as gasoline vehicles.[80]

Congress also explicitly referenced in the 1977 Amendments the "current test procedure" used by EPA to measure vehicle emissions.[81] At that time, EPA heated the diesel HC exhaust gas samples to determine compliance with the HC standard, for the specific purpose of measuring all the HC in the diesel exhaust.[82] Since diesel exhaust is cooler than gasoline vehicle exhaust, EPA found that extremely low diesel HC measurements would be obtained by using the procedure used to measure gasoline vehicle HC emissions. As a result, EPA regulations required, and continue to require, the exhaust sampling line and filter to be heated to prevent condensation of the HC and ensure its inclusion in the test results.[83]

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[73] *See* "General Motors Response to EPA Notice of Proposed Rulemaking on Particulate Regulation for Light-Duty Diesel Vehicles," April 19, 1979 (hereinafter "GM Comments").

[74] *See* 45 Fed. Reg. 14496, 14505 (March 5, 1980).

[75] 45 Fed. Reg. 14496, 14504 (March 4, 1980); *see* Analysis of Comments, Chapter III.

[76] GM has asserted that development of the particulate emission measurement technique has renewed its concern that EPA has used heated sample system lines to measure diesel exhaust HC "without proper consideration of whether the hydrocarbons being measured would be gaseous (volatile at ambient conditions)" in terms of whether a portion of the exhaust hydrocarbon emissions was adsorbed on the exhaust particulate. However, EPA's modification to the test does not affect manufacturers' ability to comply with either the HC or the particulate standard. As discussed in the text below, EPA is authorized under section 202(b) to regulate total HC emissions, and need not make an affirmative finding that the measured HC would be reactive or contribute to air pollution. Measurement of exhaust HC properly is based on the presence in the exhaust of any HC, whether it is adsorbed on the particulate and regardless of whether it remains adsorbed in the atmosphere. In addition, whether a portion of the exhaust HC is adsorbed on particulates or is volatile at ambient conditions has not affected the stringency of the particulate standard, since the numerical stringency has been based on an assumption that the baseline particulate emission level was measured with hydrocarbons adsorbed onto the particulate at the lower particulate filter temperature. *See* 45 Fed. Reg. 14496, 14504 (March 5, 1980).

[77] Under the mandate of section 6 of the Clean Air Act Amendments of 1970, Pub. L. 90-604, 84 Stat. 1690, EPA promulgated numerical values representing 1970 model year baseline levels. 36 Fed. Reg. 12657 (July 2, 1971). The HC standard that was applicable to 1970 vehicles and referenced in the 1970 Amendments was based on measurement of all HC. *See* 33 Fed. Reg. 8304 (June 4, 1978). The numerical value of 0.41 gpm arrived at by EPA was referenced explicitly by Congress in the 1977 Amendments to the Act. *See* S. Rep. No. 127, 95th Cong., 1st Sess. 68 (1977).

[78] See 44 Fed. Reg. 20086 (1979) ("EPA scientists believe methane is photochemically unreactive and does not contribute to the formation of photochemical smog.") 43 Fed. Reg. 43303 (1978), codified at 40 C.F.R. § 86.080-8(a)(1)(i) (1980 HC standard); 43 Fed. Reg. 37972-73 (1978), codified at 40 C.F.R. § 86.081-8(a)(1)(i) (1981 HC standard); 44 Fed. Reg. 20086 (1979) (denial of Ford Motor Company petition for reconsideration of hydrocarbon exhaust emission standards which included methane, a nonreactive hydrocarbon).

[79] *See* 36 Fed. Reg. 1265 (July 2, 1971). Congress considered the ability of diesel powered light-duty vehicles to meet the 0.41 HC standard and other applicable standards, indicating its intention that diesels be subject to the same requirements under section 202(b) as gasoline vehicles. *See, e.g.* H.R. Rep. No. 294, 95th Cong., 1st Sess. 245-251 (1977). The same HC measurement techniques have been applied to diesel powered light-duty trucks, and there is no indication that Congress intended light-duty trucks to be treated differently from passenger cars for purposes of compliance with total HC standards applicable to both classes of vehicles. In fact, Congress has stated that light-duty trucks "should not be regulated any less stringently than automobiles." S. Rep. No. 127, 95th Cong., 1st Sess. 66 (1977).

[80] *See* S. Rep. No. 127, 95th Cong., 1st Sess. 68 (1977).

[81] *Id.*

[82]

[83] *See* 45 Fed. Reg. 14496, 14516 (March 5, 1980), codified at 40 C.F.R. § 86.121-82 (1982 test procedure-hydrocarbon analyzer calibration;) *see supra*, note 82.

If Congress had intended that EPA exclude "non-gaseous" HC from the standard for diesel powered light-duty vehicles by changing either the measuring technique or the applicable numerical standard, it would have expressly provided for separate treatment of diesels, as was done with regard to the statutory NO_x standards.[84]

As is discussed in more detail below, adoption of GM's proposal could reduce significantly the stringency of the HC standard. Such a result would provide a windfall to manufacturers of diesel vehicles and would thus be contrary to the intent of Congress in mandating a 90 percent reduction in HC emissions effective with the 1981 model year.

B. *EPA has not changed the stringency of the HC standard in modifying the exhaust HC measurement technique to incorporate measurement of particulate emissions, whereas GM's proposed modification would affect the stringency of the HC standard.*

GM claimed that HC emissions test results are 38 percent lower under GM's proposed modification as compared to the current procedure. Since the stringency of the HC standard is a function of the measurement technique used, and EPA's technique does not differ in any material respect from the former procedure, GM's proposal conceivably could reduce the stringency of the HC standard by 38 percent.

In order to incorporate particulate measurement in the emissions testing procedure, EPA modified the test procedure to substitute use of a dilution tunnel for the mixing box used in the previously applicable procedure. In addition, the filter used in the HC measurement to screen out particulates was to be heated to 375°F±20°F, a slightly narrower temperature range than previously in effect.[85] EPA conducted tests in which gaseous emissions results from both old and new procedures were compared, and EPA concluded that the results using the new procedure were not significantly different.[86] Therefore, the stringency of the statutory HC standard was not significantly affected by the modification.

On the other hand, GM's proposal to reduce the temperature of the exhaust gas sample to 125°F for purposes of measuring HC by using the particulate measurement filter would reduce the stringency of the HC standard. This would result from exclusion of hydrocarbons that are gaseous at the higher temperatures that were used to measure diesel HC emissions at the time Congress affirmed EPA's test procedures and total HC standard. Assuming that GM's claim that there is a 38 percent difference in the measured HC as a result of using the cooler particulate filter is correct, there would be a significant reduction in the stringency of the HC standard as applied to diesel vehicles.

C. *Even if EPA were authorized to exclude from the HC measurement hydrocarbons that are adsorbed to the exhaust particulate, the rulemaking record does not show that the adsorbed HC does not participate in photochemical reactions.*

GM has asserted that the particulate rulemaking shows clearly that the hydrocarbon adsorbed to the exhaust particulate should not be considered or measured as gaseous HC emissions since they are and remain a particulate emission and do not react as a gas to form photochemical oxidant. As discussed above, EPA is not required to consider the volatility of diesel hydrocarbons in order to measure them for purposes of compliance with the total hydrocarbon standard. Furthermore, even if EPA had chosen to reexamine the HC measurement technique, currently available evidence would not enable EPA to conclude that adsorbed hydrocarbon would not participate in atmospheric chemical reactions that result in photochemical smog formation.

In support of its conclusion that the adsorbed organics "are not a part of the exhaust HC (gaseous) concern for oxidant formation," GM referred to data submitted in its comments on EPA's proposed particulate rules.[87] Although GM claims that this data showed that the adsorbed organics remain adsorbed on the particulate after months of ambient exposure, EPA concluded that GM's testing did not simulate real atmospheric conditions, and therefore would not exhibit data which is representative of the reactivity of the hydrocarbons under real world conditions.[88] For instance, whereas GM used filters with the particulate matter tightly packed on the filter surface in testing the volatility of the organics, in the real world the particulates are dispersed in the atmosphere and exposed to extreme atmospheric conditions, such as intense sunlight, turbulence, chemical interactions, temperature and humidity changes, which may play a primary role in the volatility of the hydrocarbons. In particular, when the particle-bound hydrocarbons ar exposed to real atmospheric conditions for long periods of time, there is the possibility not only that they disassociate from the particulate to become reactive, but also that they participate in photochemical reactions regardless of their proximity to the particulate.[89] Thus, EPA concluded in the particulate rule that "it believes that particulate related hydrocarbons could interact in the atmosphere both in the formation of oxidant and as particulate matter."[90]

EPA's conclusion is consistent with advice received from EPA's expert consultant on this issue, which GM claims to have been ignored by EPA. In addition to the characterization of the issue treated, as cited by GM, that "the currently in-use procedure requiring sampling at about 380°F, measures organics that are not volatile enough to react in gas phase and, hence, yield measurement results that are erroneously high with respect to the oxidant problem," the conclusion reached was that:

> It is extremely unlikely that a significant portion of the diesel organic emissions will turn out to be totally unreactive and, hence, exemptable from emission standard or tradeoff considerations.[91]

This conclusion reflects the need for reliable bases for identifying those organics that have no bearing on the oxidant/ozone problem.[92] EPA's treatment of organic compounds for purposes of State's compliance with the National Ambient Air Quality Standards for photochemical oxidants, which is based, in part, upon EPA's conclusion that available evidence shows that very few organic compounds are of such low photochemical reactivity that they can be ignored in oxidant control

[84] Congress recognized the difficulty that some diesel models would have in meeting the same NOx standard that gasoline vehicles were required to meet in 1981, and included a provision for EPA waiver of the NO_x standard for up to four model years for those light-duty diesels which demonstrated a need for the waiver. *See* section 202(b)(6)(B) of the Act.

[85] *See supra*, note 83.

[86] EPA Technical Report No. SDSB 79-04, "Light-Duty Diesel Gaseous Emissions Measurement—Comparison of Dilution Tunnel Test Results to Certification Cell Test Results," January 1979.

[87] GM Comments, Attachment E.

[88] Analysis of Comments, 132; 45 Fed. Reg. 14496, 14504 (March 5, 1980).

[89] *See* EPA, "Air Quality Criteria for Ozone and Other Photochemical Oxidants," Vol. I, April 1978, EPA-600/8-78-004 [hereinafter "Ozone Criteria Document"] pp. 5-45 to 5-58.

[90] 45 Fed. Reg. 14496, 14504 (March 5, 1980).

[91] Memorandum from Basil Dimitriades, Acting Director, Atmospheric Chemistry and Physics Division, EPA, to A.P. Altshuller, Director, Environmental Sciences Research Laboratory, 2 (June 3, 1977).

[92] *See* Ozone Criteria Document, 5-58.

programs,[93] also supports EPA's position regarding particle-bound organics.

Therefore, neither the evidence contained in the rulemaking record nor GM's data and conclusions regarding particle-bound hydrocarbons, provide a sufficient basis for EPA to modify its total hydrocarbon measurement technique, even assuming that EPA could do so.

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[93] *See* 40 CFR Part 51, Appendix B (guidance to States in preparation, adoption and submittal of State Implementation Plans); *see* 42 Fed. Reg. 35314 (July 8, 1977) (recommended policy on control of volatile organic compounds), where EPA stated that "even compounds that are presently known to have low reactivity can form appreciable amounts of oxidant under multiday stagnation conditions such as occur during summer in many areas."

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40 CFR Part 261

[FRL 1543-7]

Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Extension of Comment Period on Portion of Interim Final Rule

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period on portion of interim final rule.

SUMMARY: This notice extends for thirty-one (31) days the deadline for commenting on EPA's May 19, 1980, interim final rule listing those discarded commercial chemical products, and the off-specification species, containers, and spill residues thereof as hazardous wastes under Section 3001 of the Resource Conservation and Recovery Act, as amended.

DATE: Comments on this portion of EPA's interim final regulation are now due no later than August 18, 1980.

ADDRESS: Comments should be sent to Docket Clerk [Docket No. 3001], Office of Solid Waste [WH-562], U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

PUBLIC DOCKET: The public docket for this regulation is located in Room 2711, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., and is available for viewing from 9:00 A.M. to 4:00 P.M., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Corson, Hazardous and Industrial Waste Division, Office of Solid Waste [WH-565], U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-9187.

SUPPLEMENTARY INFORMATION: On May 19, 1980, as part of its final and interim final regulations implementing Section 3001, of RCRA, EPA published a list of 361 commercial chemical products, and the off-specification species, containers and spill residues thereof which are deemed to be hazardous wastes if and when discarded or intended to be discarded (*see* § 261.33, 45 FR 33066, 33124-127). The original deadline for commenting on this interim final rule was July 18, 1980.

The Agency has received many questions indicating that the regulated community did not fully understand the use of the § 261.33 (e) and (f) regulations. These apply only to the commercial product (and the noted variants) when discarded. Many generators further indicated the need for additional time to evaluate or obtain additional data to ascertain the generic name of various products they use, which would be hazardous wastes if discarded.

In order to allow time for the development of this data, EPA is extending the comment period on those commerical chemical products, and the off-specification species, containers, and spill residues thereof for an additional thirty-one (31) days.

Dated: July 15, 1980.

James N. Smith,

Acting Assistant Administrator.

[FR Doc. 80-21787 Filed 7-17-80; 8:45 am]
BILLING CODE 6560-01-M

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40 CFR Part 261

[FRL 1545-1]

Hazardous Waste Guidelines and Regulations, Extension of Comment Period on Interim Final Listing

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Extension of comment period on interim final listing.

SUMMARY: This notice extends for thirty-one (31) days, the deadline for commenting on EPA's May 19, 1980, interim final listing of seven wastes generated by the leather tanning and finishing industry as hazardous wastes under Section 3001 of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended.

DATES: Comments limited to the validity of EPA's decision to list those seven wastes as hazardous are now due no later than August 18, 1980.

ADDRESSES: Comments should be sent to Docket Clerk [Docket No. 3001], Office of Solid Waste [WH-562], U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

PUBLIC DOCKET: The public docket for this regulation is located in Room 2711, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C., and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: Matthew A. Straus, Hazardous and Industrial Waste Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 755-9187.

SUPPLEMENTARY INFORMATION: On May 19, 1980, as part of its initial regulations implementing Section 3001 of RCRA, EPA published an interim final list of hazardous wastes (Subpart D of this Part, 45 FR 33123-33124). The original deadline for commenting on this interim final list was July 18, 1980.

The Tanners' Council of America has requested an extension of time to comment on the validity of EPA's decision to include on this list seven wastes generated by the leather tanning and finishing industry. (40 CFR § 261.32, EPA Hazardous Waste Numbers K053 through K059). The chief ground for their request is that certain reference materials cited in the background document supporting these listings were not immediately available for public review. Although most of these materials are now available, and the remainder will be available this week, EPA believes that the public should be accorded additional time to comment on them. EPA is accordingly extending the comment period on these seven wastes (40 CFR § 261.32, EPA Hazardous Waste Numbers K053 through K059) for thirty-one (31) days from July 18, 1980.

Dated: July 16, 1980.

Eckhardt C. Beck,

Assistant Administrator.

[FR Doc. 80-21835 Filed 7-17-80; 9:05 am]
BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 5A-1, 5A-16

[APD 2800.3 CHGE 7]

Procurement Regulations; Qualified Products

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration Procurement

Regulations, Chapter 5A, are amended by revising the Qualified Products clause to permit awards to dealers not listed on the Qualified Products List (QPL) who repackage a QPL product, provided the QPL product is identified in the container markings. The change to the clause is based on a decision of the Comptroller General (B-194479, October 19, 1979). The intended effect of the revision is to increase competition.

EFFECTIVE DATE: September 12, 1980.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy, (703-557-8947).

PART 5A-1—GENERAL

Subpart 5A-1.11—Qualified Products

1. Section 5A-1.1101-70 is revised as follows:

§ 5A-1.1101-70 Solicitations.

(a) *Qualified Products clause.* When qualified products are to be procured, the clause in § 1-1.1101(b), modified as follows, shall be included in the solicitation for offers.

Qualified Products

(a) With respect to products described in this solicitation as requiring qualification, awards will be made only for such products as have, prior to the time set for receipt of offers, been tested and approved for inclusion in the Qualified Products List (QPL) identified below. Manufacturers or regular dealers who wish to have a product tested for qualification shall communicate with the office designated below. Manufacturers or regular dealers having products not yet listed, but which have been qualified, are requested to submit evidence of such qualification with their offers, so that they may be given consideration.

Item Number———

Qualified Products List ———

Direct Communication to ———

(b) The offeror shall insert, in the spaces provided below (or by attachment if additional space is needed), the name of the qualified source, the product designation, and the QPL test or qualification reference number of each product offered. Qualified products may be packaged in any container which shows the identifying label or marking of the qualified source of the product, and which is in conformance with the packaging and packing requirements specified elsewhere in this contract. Any offer which does not identify the qualified product offered will be rejected as nonresponsive, or in the case of negotiated procurements, may not be considered for award.

Item Number———

Name of Qualified Source of Product———

Product Designation ———

QPL Test or Reference No———

(End of Clause)

(b) *Product removal from qualified products lists.* Products may be removed from qualified products lists for reasons stated in the Federal Standardization Handbook (FPMR 101-29).

(1) When security cabinets, security vault doors, and changeable combination padlocks which have been qualified under applicable Federal or Interim Federal Specifications are to be procured, the following clause shall be included in the solicitation:

Product Removal From Qualified Products List

If, during the performance of this contract, the product being furnished is, for any reason except those outlined in paragraph 3.1.1 of the applicable Federal or Interim Federal Specification, removed from the Qualified Products List, the Government may terminate this contract for default pursuant to Article 11(a)(ii) of the General Provisions, Standard Form 32.

(End of Clause)

(2) When other qualified products are to be procured, the following clause shall be included in the solicitation:

Product Removal From Qualified Products List

If, during the performance of this contract, the product being furnished is for any reason removed from the Qualified Products List, the Government may terminate this contract for default pursuant to Article 11(a)(ii) of the General Provisions, Standard Form 32.

(End of Clause)

2. Section 5A-1.1101-71 is revised as follows:

§ 5A-1.1101-71 Waiver of qualification requirement.

(a) When a procuring activity has a requirement for a product to be procured under a specification which includes a qualification requirement and the contracting officer has evidence to support a conclusion that it is likely that a solicitation for a QPL product would not produce acceptable bids or adequate competition, a request for a waiver from the qualification requirement of the specification shall be submitted by the procuring director to the Office of Engineering and Technical Management (FRE). The reasons why the waiver is being requested shall be stated in the request.

(b) If a waiver is granted, it shall be stated in the solicitation that the qualification requirement of the specification does not apply. Unless a notification of waiver states otherwise, each waiver granted shall apply only to the specific procurement for which the waiver was requested, and shall not be construed as authorizing a waiver with respect to any other procurement.

PART 5A-16—PROCUREMENT FORMS

Subpart 5A-16.9—Illustrations of Forms

§ 5A-16.950-2166 [Amended]

Section 5A-16.950-2166 is revised to illustrate the 9-78 edition of GSA Form 2166, Service Contract Act of 1965 (as amended).

Note.—The form illustrated in this § 5A-16.950-2166 is filed with the original document and does not appear in this volume.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: July 7, 1980.

Gerald McBride,

Assistant Administrator for Acquisition Policy.

[FR Doc. 80-21702 Filed 7-17-80; 8:45 am]

BILLING CODE 6820-61-M

41 CFR Ch. 101

[FPMR Temp. Reg. A-12, Supp. 3]

Centralized Household Goods Traffic Management

AGENCY: Transportation and Public Utilities Service, General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This regulation extends to May 31, 1981, the expiration date of FPMR Temporary Regulation A-12.

DATES: Effective date: June 1, 1980. Expiration date: May 31, 1981.

FOR FURTHER INFORMATION CONTACT: John Millington, Traffic Programs Branch (202-275-0654).

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter A to read as follows:

[Federal Property Management Reg. Temporary Reg. A-12 Supp. 3]

Centralized household goods traffic management

1. *Purpose.* This regulation extends the expiration date of FPMR Temporary Regulation A-12.

2. *Effective date.* This regulation is effective June 1, 1980.

3. *Expiration date.* This regulation expires on May 31, 1981.

4. *Explanation of changes.* The expiration date in paragraph 3 of FPMR Temporary Regulation A–12 is revised to May 31, 1981.

F. G. Freeman III,

Administrator of General Services.

[FR Doc. 80–21475 Filed 7–17–80; 8:45 am]

BILLING CODE 6820–AM–M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

45 CFR Part 116d

Grants to State Educational Agencies to Meet the Special Educational Needs of Migratory Children; Correction

AGENCY: Department of Education.

ACTION: Correction, final regulations.

SUMMARY: In the final regulations published in the Federal Register on April 3, 1980, (45 FR 22660) two technical corrections need to be made.

FOR FURTHER INFORMATION CONTACT: Mr. John Ridgway, telephone (202) 245–2222.

SUPPLEMENTARY INFORMATION: The document is corrected as follows:

(a) On Page 22667, second column, in § 116d.51, paragraph (c), which reads ". . . the SEA shall require that operating agency or apply for funds . . ." change "or apply for funds" to read "to apply for funds."

(b) On page 22670, second column, in § 116d.64, paragraph (c)(2), which reads "Implement a special arrangement as stated under § 116d.24." change "§ 116d.24" to read "§ 116d.23."

Dated: July 14, 1980.

(Catalog of Federal Domestic Assistance No. 13.429; Educationally Deprived Children-Migrants)

Stewart A. Baker,

Deputy General Counsel for Regulations.

[FR Doc. 80–21495 Filed 7–17–80; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Parts 220, 222, and 228

Social Service Programs; Administration of Grants

AGENCY: Administration for Public Services (APS), Office of Human Development Services (HDS), Department of Health and Human Services.

ACTION: Final regulations.

SUMMARY: These final regulations are technical amendments to the rules governing the social service programs under the Social Security Act. They are promulgated to insure that the service programs comply to the fullest extent possible with 45 CFR Part 74, "Administration of Grants" which establishes uniform requirements for the administration of all HHS grants.

EFFECTIVE DATE: These regulations are effective on July 18, 1980, except that § 228.53(c) is effective October 1, 1980.

FOR FURTHER INFORMATION, CONTACT: Re: titles I, IV–A, X, XIV, XVI(AABD), and XX: Mrs. Johnnie U. Brooks, Room 722–E, HHH Building, Department of HHS, 200 Independence Avenue, S.W., Washington, D.C. 20201 (202) 472–4415. Re: title IV–B: James H. Rich, Room 2037, Donohoe Building, 400 6th Street, S.W., Washington, D.C. 20201 (202) 755–7583.

SUPPLEMENTARY INFORMATION:

Background and Regulation Changes

In August 1978 HEW's grant administration regulations, contained in 45 CFR Part 74, were revised to provide uniform basic administrative provisions for virtually all HEW grants. Since then each agency administering grants within the Department has reviewed its regulations, and where necessary, has revised or will revise them to insure that they do not unjustifiably conflict with, repeat, state differently, or expand upon the provisions in Part 74.

The regulations in 45 CFR Parts 220, 222, and 228 are revised so that they now comport with Part 74 except where to do so would make the service programs inconsistent with the authorizing legislation in titles I, IV–A and B, X, XIV, XVI(AABD), and XX. The changes contained in these amendments are made specifically in order to clarify current policy, delete unnecessary duplications, modify text to make it consistent with Part 74, and to correct certain citations.

Two major policy clarifications are made in these revised regulations. The first clarification concerns the requirement for compliance with Part 74. In the past adherence to Part 74 has been a condition for Federal financial participation in all service programs. These regulations also point out at 45 CFR 220.1 and at 45 CFR 222.1 that adherence to Part 74 in the service programs under titles I, IV–A, X, XIV, and XVI (AABD) is also a State plan requirement. The authority for this rule is based on language in the statute that requires a State to provide for such methods of program administration as are found by the Secretary to be necessary for the proper and efficient operation of the plan.

Since there is no comparable statutory authority in titles IV–B and XX for a State plan requirement in this area, adherence to Part 74 in these programs remains an FFP issue only, as pointed out in §§ 220.64(a) and 228.90(a).

The second major clarification made by the regulations concerns the new concept of "third-party public agency" which has not been contained in the service regulations heretofore. In the past, under the service programs, arrangements between the State agency and other governmental units were generally subject to the same rules.

The State agency dealt with entities outside the State agency, including other public agencies and units of the same State government, on a cost basis except in valuing in-kind contributions. In-kind contributions were assessed on the basis of fair market or fair rental value. Under these revisions, only those public entities that meet the definition of third-parties have the option of valuing in-kind contributions on the basis of fair market or fair rental value.

With respect to procurements, all transactions between the State agency and other public entities were on a cost basis. Thus, other public agencies that meet the definition of third-parties were not afforded the option of negotiating rates in transactions with the State agency.

Since Part 74 makes the distinction between public entities which are third-parties from those which are not, these regulations are revised so that they are consistent with Part 74.

45 CFR 228.53(d) defines, by exception, "third-party public agency" according to whether a State's service program is State administered or is State supervised and locally administered. Under the definition, in a State administered system, any unit of local government is a third-party public agency. The State may deal with these entities on either a cost basis or on a negotiated rate basis. The State agency must deal with all units of the State government (non- "third-party public agencies") on a cost basis. In a State supervised system, any unit of county or city government (except where such county or city government administers the service program) is a third-party public agency. Thus, the State agency may deal with these units on either a cost or negotiated rate basis. The State agency must deal on a cost basis with: (1) all units of State government; (2) all

units of county government in a county that administers the service program; and (3) all units of city government where the city administers the service program. These entities must also deal with each other on a cost basis.

In recognition of the fact that some States may not now be operating their programs in accordance with the applicable cost principles contained in the revised regulations, the Department is agreeable to the continuation of this deviation from Part 74 until October 1, 1980. On and after that date all States must adhere to 45 CFR 228.53(c) as a condition for Federal financial participation.

Waiver of Proposed Rulemaking

We believe there is good cause to waive notice of proposed rulemaking and to forego a comment period because these final regulations do not establish new polices. They merely incorporate policies and procedures already contained in Part 74.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))

(Catalog of Federal Domestic Assistance Programs No. 13.642, Social Services for Low Income and Public Assistance Recipients, and 13.645, Child Welfare Services—State Grants)

Note.—It has been determined that this document does not require preparation of a Regulatory Analysis under Executive Order 12044.

Dated: April 16, 1980.

Cesar A. Perales,

Acting Assistant Secretary for Human Development Services.

Approved: July 11, 1980.

Nathan J. Stark,

Acting Secretary.

In consideration of the foregoing, title 45 of the CFR is amended as follows:

45 CFR Part 220 is amended as follows:

1. The Table of Contents is revised to read as set forth below:

PART 220—SERVICE PROGRAMS FOR FAMILIES AND CHILDREN; TITLE IV PARTS A AND B OF SOCIAL SECURITY ACT

Editorial Note: At 40 FR 45819, Oct. 3, 1975, Part 220 was amended and the extent of its applicability limited. Part 228 (40 FR 27354, June 27, 1975), of this chapter supersedes Part 220 with the following exception:

Regulations in this part relating to child welfare services under Part B of title IV of the Social Security Act, remain effective for the 50 States and the District of Columbia.

Subpart A—Mandatory Provisions

* * * * *

Other Requirements Applicable to Title IV, Parts A and B, as Indicated

Subpart B—Optional Provisions

Services in Aid to Families With Dependent Children

Child Welfare Services

Subpart C—Federal Financial Participation

Subpart D—Other Provisions Governing Child Welfare Services Program

Sec.

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302); sec. 101 of Pub. L. 95-205, 91 Stat. 1461; sec. 210 of Pub. L. 95-480, 92 Stat. 1586.

2. Subpart A is amended by revising §§ 220.1, 220.46 and 220.47, as follows:

Subpart A—Mandatory Provisions

§ 220.1 General.

(a) The State plans for AFDC and CWS pursuant to title IV, parts A and B of the Social Security Act must, with respect to the administration of the service programs for families and children,

(1) Contain provisions committing the State to meet the requirements in this subpart;

(2) Contain provisions committing the State to progress in the extension and improvement of services;

(3) Indicate the steps to be taken to meet the requirements; and

(4) For title IV-B, provide for the submission of such implementation and progress reports as may be specified.

(b) The State plans for services under title IV-A must contain provisions committing the State to comply with 45 CFR Part 74.

§ 220.46 Reports and evaluations (applicable to IV-B).

Such reports and evaluations must be furnished to the Secretary as he may specify, showing the scope, results and costs of services for families and children.

§ 220.47 Implementation by local agencies (applicable to IV-A and B).

(a) The State agency must have methods of assuring that local agencies are meeting the plan requirements.

(b) The State plan must also describe the methods to be used to carry out this requirement.

3. Subpart B is amended by revising § 220.50 as follows:

Subpart B—Optional Provisions

§ 220.50 General.

If a State elects under title IV-A to provide services for additional groups of families and children, i.e., current applicants or former or potential applicants and recipients of public assistance, the State plan: must—

(a) Identify such group or groups and specify the services to be made available to such group;

(b) Contain provisions committing the State to meet the requirements in this subpart; and

(c) Indicate the steps to be taken to meet those requirements.

4. Subpart C is amended by revising §§ 220.61 (a) and (e), 220.64 and 220.65 as follows:

Subpart C—Federal Financial Participation

§ 220.61 Federal financial participation; AFDC.

(a) *General.* Federal financial participation is available in expenditures for—

(1) Properly and efficiently administering the plan;

(2) Providing the services for the groups of families and children; and

(3) Carrying out the activities described in subparts A and B of these regulations that are included in the approved State plan. Such participation will be at the rates prescribed in this subpart.

* * * * *

(e) *Federal financial participation for child care services.* Child care expenditures for WIN participants must be charged as a service expenditure and separately identified since Federal funds for this purpose come from a separate appropriation. Child care expenditures for other AFDC cases may be charged as a service expenditure or included as a financial assistance expenditure subject to matching under the title IV–A formula, depending on how the State plan specifies. Where child care is provided as a service the payment may be made either to the vendor of the service directly or to the recipient for payment by him. In either case documentation is needed in the form of statements of the type and quantity of services rendered for each recipient (receipted by vendor when the service payment is made directly to the recipient) to establish the fact that the expenditure was for services.

* * * * *

§ 220.64 FFP: Provisions common to title IV–A and B.

(a) *General.* Federal financial participation is available only if costs are incurred in accordance with the grants administration requirements of 45 CFR Part 74 and where appropriate, allocated in accordance with the cost allocation provisions of 45 CFR 205.150.

(b) *Restrictions on State's share.* The State's share in claiming FFP under both Parts A and B of title IV shall be in accordance with 45 CFR 228.53.

§ 220.65 Amount of Federal funding.

(a) The amount of Federal funds available for services under title IV–A is dependent upon the availability of and extent of matching State funds, except as stated in § 220.61(f), for Puerto Rico, Virgin Islands, and Guam.

(b) The amount of Federal funds under title IV–B may not exceed the amount available under the allotment formula prescribed by law. The availability of these funds is dependent upon State expenditures, matched according to the formula prescribed by law.

5. Subpart D is amended by revising §§ 220.74 and 220.80, and by reserving §§ 220.72, 220.76, 220.79 and 220.85.

Subpart D—Other Provisions Governing Child Welfare Services Program

§ 220.72 [Reserved]

§ 220.74 Payments from allotments.

Payments to a State from the sums available from its allotments under section 421 of the Act shall be computed and made pursuant to sections 422 and 423 of the Act, as follows:

(a) For any fiscal year the "Federal share" for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States except that the Federal share shall in no case by less than 33⅓ per centum or more than 66⅔ per centum, and the Federal share for Puerto Rico, the Virgin Islands, Guams and the Commonwealth of the Northern Mariana Islands shall be 66⅔ per centum.

(b) *Estimates.* Prior to the beginning of each fiscal quarter an authorized official of the State agency should submit to the Office of Human Development Services (HDS) on official forms an estimate of the amount of the Federal share which it will require from the sums available from its allotments under section 421 of the Act in carrying out the annual budget during such quarter.

(c) *Payments.* On the basis of the annual budget and the quarterly estimates the State agency submits, the Commissioner of the Administration for Children, Youth, and Families shall issue a grant award to each State. The award shall be made from the sums available from each State's allotment for the Federal share of the estimate, reduced or increased by any overpayment or underpayment to the State for any prior quarter not previously adjusted.

(d) The Departmental Federal Assistance Financing System (DFAFS) shall advance funds for the grant to the State under the procedures in Subpart K of 45 CFR Part 74, Treasury Circular No. 1075, and the DFAFS Recipient Users Manual.

§ 220.76 [Reserved]

§ 220.79 [Reserved]

§ 220.80 Apportionment of costs.

Where an expenditure is made for the benefit of this program and any other programs, the amount to be charged as a cost of carrying out the State plan shall be governed by the cost principles specified by Subpart Q of 45 CFR Part 74.

§ 220.85 [Reserved]

45 CFR Part 222 is amended as follows:

6. The Table of Contents for Subparts A and E is revised to read as set forth below:

PART 222—SERVICE PROGRAMS FOR AGED, BLIND, OR DISABLED PERSONS: TITLES I, X, XIV, AND XVI OF THE SOCIAL SECURITY ACT

Editorial Note: At 40 FR 45818, Oct. 3, 1975, the regulations in Part 222 were superseded by Part 228 (40 FR 27354, June 27, 1975), except that Part 222 remains in effect for Puerto Rico, the Virgin Islands and Guam for the operation of services programs under titles I, IV–A, IV–B, X, XIV and XVI (AABD) of the Social Security Act.

Subpart A—Mandatory Provisions for All Service Programs

Subpart E—Federal Financial Participation

Authority: Sec. 1102, 102–103, 1002–1003, 1402–1403, 1602–1603 of the Social Security Act, 42 U.S.C. 1302, 302–303, 1202–1203, 1352–1353, 1382–1383 (AABD); sec. 101 of Pub. L. 95–205, 91 Stat. 1461; sec. 210 of Pub. L. 95–480, 92 Stat. 1586.

7. Subpart A is amended by revising §§ 222.1 and 222.10 as follows:

Subpart A—Mandatory Provisions for All Service Programs

§ 222.1 General.

A State plan under title I, X, XIV, or XVI of the Social Security Act that provides for any services to aged, blind, or disabled persons, must—

(a) Describe the services available under the State plan to current applicants and recipients;

(b) Identify which, if any, of the optional groups described in § 222.55 are also eligible for services;

(c) Specify the services to be made available to each such group;

(d) Commit the State to comply with the requirements in this Subpart; and

(e) Commit the State to comply with the requirements of 45 CFR Part 74.

§ 222.10 Reports.

The State shall submit to the Secretary such reports as the Secretary may require concerning the use of Federal funds and the cost of services for aged, blind, or disabled persons.

8. Subpart E is amended by revising §§ 222.89 and 222.90 and reserving § 222.91 as follows:

Subpart E—Federal Financial Participation

§ 222.89 Conditions for FFP.

(a) *General.* Federal financial participation is available only if costs are incurred in accordance with the grants administration requirements of 45 CFR Part 74 and where appropriate, allocated in accordance with the cost allocation provisions of 45 CFR 205.150.

(b) *Restrictions on State's share.* The State's share in claiming FFP under this part shall be in accordance with 45 CFR 228.53.

§ 222.90 Rates of Federal financial participation.

(a) FFP at the 75 percent rate.

(1) *General.* FFP is available at the rate of 75 percent for the eligible service costs identified in § 222.88, for training and staff development, and for other costs specified in Paragraph (a)(2) of this section, provided that the State plan meets all of the requirements of Subparts A and B of this Part.

(2) Kinds of expenses for which FFP is available at the 75 percent rate:

(i) Salary and travel costs of service workers (including volunteers) and their supervisors giving full-time to services, and for staff entirely engaged (either at State or local level) in developing, planning and evaluating services.

(ii) Salary costs of service-related staff such as supervisors, clerks, secretaries, and stenographers, which represent that portion of the time spent in supporting full-time service staff.

(iii) Related expenses of staff performing service or service-related work under Paragraphs (a)(2) (i) and (ii) of this section in proportion of their time spend on services. Such related expenses include communication, equipment, supplies, and office space.

(iv) Other expenses related to the provision of service in support of full-time service staff, including a portion of the salary costs of any agency person (except the service worker who must be on a full-time basis) who is working part-time on service functions (either at the State or local agency level). Such expenses include the portion of salary costs of supervisors related to supervision of service work, a portion of fiscal costs related to services, a portion of research costs related to services, a portion of salary costs of field staff, etc.

(3) Definitions applicable to this section:

(i) Full-time service work means the performance of functions related to the provision of services by persons assigned exclusively to such functions, regardless of the number of hours they are employed.

(ii) Service work means the activities of staff in providing the services and carrying out the related responsibilities specified in Subparts A, B, and C of this Part. This includes services to families and children, and referring questions from former and potential recipients about income maintenance and medical benefits to staff responsible for those programs. It does not include securing information or taking actions in respect to determining initial and continuing eligibility for financial or medical assistance or to change the amount of financial assistance being provided.

(iii) Service-related work means activity of staff other than service workers which is necessary to fully administer a service program. This includes activities of secretaries, stenographers, and clerks serving service staff; of supervisors of service workers and their supervisors; of staff responsible for developing and evaluating service policies; and of staff collecting and summarizing financial and statistical data on services.

(iv) Staff means persons individually or in groups performing service or service-related work. This includes professional, subprofessional (e.g., recipients and other workers of low income), and volunteer staff.

(b) *FFP at the 50 percent rate.* FFP is available at the rate of 50 percent for the following:

(1) Salaries and travel of workers carrying responsibility for both services and financial or medical eligibility functions, supervisory costs related to such workers, and all or part of the salaries of supporting secretarial, stenographic, or clerical staff depending on whether they work full-time or part-time for the workers specified in this paragraph (b)(1).

(2) Salaries and travel of staff primarily engaged in developing processes for, or determining eligibility for financial or medical assistance and their supervisors and supporting staff.

(3) Expenses related to staff described in paragraphs (b) (1) and (2) of this section, such as for communication, equipment, supplies and office space.

(4) Other expenses of administration not specified at the 75 percent rate.

§ 222.91 [Reserved]

45 CFR Part 228 is amended as follows:

9. The table of Contents for Subpart E is revised to read as set forth below:

PART 228—SOCIAL SERVICES PROGRAMS FOR INDIVIDUALS AND FAMILIES: TITLE XX OF THE SOCIAL SECURITY ACT

* * * * *

Subpart E—Limitations: Financial

* * * * *

Subpart A—Scope and Definitions

§ 228.1 [Amended]

10. Subpart A is amended in § 228.1 by deleting the definition of "Other public agencies."

11. Subpart B is amended by revising §§ 228.5(f) and 228.17 as follows:

Subpart B—State Plan Requirements, Reports, Maintenance of Effort, Compliance

§ 228.5 Appropriate State agency.

* * * * *

(f) *Administrative support agreements.* In carrying out the responsibilities under paragraph (e) of this section, the State agency may enter into agreements with other public agencies and private entities to procure

administrative support. A local agency administering the program under the supervision of the State agency may also enter into such agreements.

§ 228.17 Reports and maintenance of records.

(a) Each State which participates in the program shall maintain or supervise the maintenance of records necessary for the proper and efficient operation of the program, including records regarding applications, determination of eligibility, the provision of services, and administrative cost; and statistical fiscal and other records necessary for reporting and accountability required by the Secretary and shall retain such records for such periods as are prescribed by the Secretary.

(b) The State agency shall make such reports in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as he finds necessary to assure the correctness and verification of such reports.

12. Subpart E is amended by revising § 228.53 and combining it with some of the content of § 228.54 which is now reserved. As revised, §§ 228.53 and 228.54 read as follows:

Subpart E—Limitations: Financial

§ 228.53 Restrictions on State's share in claiming FFP.

(a) Subpart G of 45 CFR Part 74 shall be followed in meeting the State's share in claiming FFP for the services program, including training and other administrative functions except:

(1) Goods or services provided in-kind from private sources may not be used as the State's share. Services of volunteers are private in-kind contributions.

(2) Donated funds from private sources must:

(i) Be transferred to the State agency and under its administrative control;

(ii) Be donated to the State agency, without restrictions as to use, except that the donor may specify either or both of the following—

(A) The services, administration, or training for which the funds are to be used, if the donor is not a sponsor or operator of a program to provide such services, administration, or training.

(B) The geographic area in which the services are to be provided.

(iii) Not be used to purchase services from the donor unless the donor is a nonprofit organization and it is an independent decision of the State agency to purchase services from the donor.

(b) For purposes of this Part, a voluntary federated fund-raising organization is not considered to be a sponsor or operator of a service facility, and member agencies are considered separate autonomous entities so long as control by interlocking board membership or other means does not exist.

(c) In-kind contributions from public agencies, which do not meet the definition of third-party public agency in § 228.53(d), must be valued in accordance with the cost principles specified in Subpart Q of 45 CFR Part 74.

(d) Under this Part a third-party public agency means any public entity (including Indian tribes) except—

(1) Units of the State government; and

(2) Units of administering local governments in a State whose title XX program is State supervised and locally administered.

(e) The effective date of paragraph (c) of this section is October 1, 1980.

§ 228.54 [Reserved]

Subpart G—Purchase of Services

13. Subpart G is amended as follows:

a. Section 228.70 is amended by revising the introductory paragraph, (a) introductory text, (a)(1) through (a)(5), and (a)(13) to read as follows:

§ 228.70 Procurement standards.

FFP is available in the costs of purchased services only if they are secured in accordance with the provisions of Subpart P of 45 CFR Part 74 where applicable, and the requirements of this Subpart. (Subpart P of 45 CFR Part 74 is not applicable when property or services of one unit of government or governmental agency are acquired from another government or another agency of the same government.)

(a) *Written contracts.* The State agency executes a written contract in accordance with requirements under this Part (delete) with the agency, individual, or organization from which services are purchased. In addition to the applicable requirements of 45 CFR Part 74, the contract shall:

(1) Include all terms of the contract in one instrument, be dated, and be executed by authorized representatives of all parties to the contract prior to the date of Implementation;

(2) Have a definite beginning and ending date for provision of services;

(3) Contain a detailed description of the services to be provided and of the methods, including subcontracting, to be used by the provider in carrying out its obligations under the contract;

(4) If eligibility determinations are to be made by the provider, contain a statement to that effect and criteria in accordance with Subpart F which shall be used by the provider for such determinations; and specify that the provider will inform individuals of their right to fair hearings in accordance with § 228.14;

(5) Provide for a stated number of units of services and costs in such a way that the unit rate of cost of service and the total cost of the contract may be determined;

* * * * *

(13) Provide for making available information to support the State's claim for FFP, including verification of eligibility, and of the services provided.

* * * * *

b. Section 228.71 is revised to read as follows:

§ 228.71 Rates of payment.

(a) FFP is available for expenditures for services only where the rates of payment for services do not exceed the amounts reasonable and necessary to assure the quality of service.

(b) Rates of payment for services purchased from private agencies and third-party public agencies (see § 228.53(d)) may be established on the basis of competitive bidding or negotiation, utilizing any reasonable methods for establishing competitive rates, including the Principles for Determining Costs under Subpart Q of 45 CFR Part 74.

(c) Rates of payment for services purchased from public agencies which are not third-party public agencies shall not exceed the cost of those services determined in accordance with the cost principles prescribed by Subpart Q of 45 CFR Part 74.

(d) The State agency shall maintain records which describe and support the rates of payment and the methods used to establish and maintain such rates.

(e) Public Health Service grant funds from programs specified in 42 CFR Part 50 of the Health Services Funding regulation (as well as any matching funds required to earn those grant funds) which have been made available under a grant to a health service project, if not required to be used to finance cost of services to individuals eligible for services under title XX, shall not be deemed by the State agency to be available to reduce the costs otherwise subject to reimbursement under title XX.

14. Subpart I is amended by revising §§ 228.90 and 228.91 as follows:

Subpart I—General Provisions

§ 228.90 Expenditures for which Federal financial participation is available.

General:

(a) Federal financial participation is available only for expenditures which are made in accordance with grant administration requirements set forth in 45 CFR Part 74, and, where appropriate, allocated in accordance with the cost allocation provisions of 45 CFR 205.150.

(b) Under this Part, expenditures for the following are also considered appropriate in addition to those allowable costs listed in 45 CFR Part 74;

(1) Costs of transportation (such as tokens or tickets); and medical examinations, when necessary for the development of a services plan or when precedent to obtaining a service for an individual, provided such medical examination is not available to the individual under title XVIII or title XIX of the Act;

(2) Costs of State agency advisory committees on services, including expenses of members in attending meetings, supportive staff, and other technical assistance;

(3) Costs of agency staff attendance at meetings pertinent to the development or implementation of Federal and State service policies and programs;

(4) Cost to the agency for the use of volunteers in the program; and

(5) Costs of technical assistance, data collection, surveys and studies performed by other public agencies, private organizations or individuals to assist the State agency in developing, planning, monitoring, and evaluating the services program.

§ 228.91 Expenditures for which Federal financial participation is not available.

Federal financial participation is not available under this part in expenditures for—

(a) Carrying out any maintenance assistance payments functions or any other functions or activities which are not related to services under this Part;

(b) The purchase, construction, or major modification of any land, building or other facility, or fixed equipment, except to the extent of depreciation or use allowances in accordance with the cost principles prescribed by Subpart Q of 45 CFR Part 74; and

(c) Housing costs for families and individuals including rent, deposits, purchase, construction, major renovation or repair.

[FR Doc. 80-21693 Filed 7-17-80; 8:45 am]

BILLING CODE 4110-92-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

Distribution of Freight Cars

Decided: July 14, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1234–A.

SUMMARY: Service Order No. 1234–A, vacates Nineteenth Revised Service Order No. 1234. Service Order No. 1234 was instituted to respond to an acutely short supply of rail freight cars particularly suitable to transport grain. Since no shortage of rail freight cars presently exists, this order is vacated effective 11:59 p.m., July 31, 1980.

EFFECTIVE DATE: 11:59 p.m., July 31, 1980.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275–7840.

Upon further consideration of Nineteenth Revised Service Order No. 1234 (44 FR 21798), and good cause appearing therefor:

§ 1033.1234 [Vacated]

It is ordered: Section 1033.1234 *Distribution of Freight Cars,* Nineteenth Revised Service Order No. 1234 is vacated effective 11:59 p.m., July 31, 1980.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-21513 Filed 7-17-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Parts 1100, 1104

[Ex Parte No. MC-82 (Sub-No. 3)]

New Procedures in Motor Carrier Revenue Proceedings; Notice Period and Protest Rules

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The protest and reply periods as well as the time for Commission decisions in response to protest of proposed motor carrier restructurings and general rate increases are modified. The "due date" for protests is advanced by 2 days and replies by 3 days. The Commission, except under extraordinary circumstances, will render a decision on protests no later than 5 days before the proposed tariff's effective date. Petitions for reconsideration will be considered at the Commission's discretion. Provisions is also made for expedited service of tariff justification statements and protests. This modification will enable the Commission to have before it all evidence earlier and act sooner than presently possible.

DATES: The effective date of these changes is September 2, 1980.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, (202) 275–7693.

FOR COPIES OF THE DECISION IN THIS PROCEEDING CONTACT: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, (800) 424–5230.

SUPPLEMENTAL INFORMATION: By notice published December 14, 1979 (44 FR 76327), the Commission proposed to modify the present time table for the handling of motor carrier restructings and general rate increase proposals subject to the so-called "MC–82" rules [49 CFR Part 1104].

After reviewing comments by the public, the Commission has modified its regulations. When motor common carriers file schedules subject to Ex Parte No. MC–82, *New Procedures Motor Carrier Rev. Proc.,* 339 I.C.C. 324 (1971), protests shall reach the Commission at least 22 days before the proposed dates of these schedules. Replies to protests should reach the Commission not later than 14 days before the effective date of the protested schedules. [See 49 CFR 1100.40(c).] Except in extraordinary circumstances the Commission will act on protests or requests for suspension of tariffs no later than 5 days before their proposed effective dates. A decision by the entire Commission will not be subject to petitions for reconsideration at the suspension level, except at the Commission's discretion. [See 49 CFR 1100.40(i).]

To compensate for the reductions in the time for filing protests and replies, the regulations have also been modified to provide that justification statements and protests will be served by express mail or other expedited delivery service

upon any person undertaking to pay the cost. Written request for this expedited service must be made no less than 5 days before the statement is due to be filed with the Commission. [See 49 CFR 1100.40(c) and 49 CFR 1104.9(b).]

The rule modifications are as follows:

§ 1100.40 [Amended]

1. Modify 49 CFR 1100.40(c), *Motor Carrier Tariff Bureau Filings,* to read:

* * * * *

(c) *Motor Carrier Tariff Bureau Filings.* When motor common carrier tariff bureaus file schedules of proposed general increases in rates and charges, or of proposed rate restructurings subject to the special procedures adopted in Ex Parte No. MC–82, *New Procedures in Motor Carrier Rev. Proc.* 339 I.C.C. 324 (1971), and set forth in Part 1104 of this subchapter, protests thereto shall reach the Commission at least 22 days before the published effective dates of those schedules. To assure consideration, replies to protests should reach the Commission no later than 14 days before the effective date of the protested schedules. All statements shall be served by express mail or an equivalent expedited delivery service upon any party undertaking to bear the cost. Written request for this expedited service must be made no less than 5 days before the statement is due to be filed with the Commission.

* * * * *

2. Add to 49 CFR 1100.40, *Protests Against Applications,* a new subparagraph (i) as follows:

* * * * *

(i) Except in extraordinary circumstances the Commission will act on protests or requests for suspension of tariffs filed under paragraph (c) of this section no later than 5 days before the effective date of the tariffs, schedules, or parts thereof to which the protests refer. A decision at the suspension level by the entire Commission on the protests will not be subject to petitions for reconsideration, except at the Commission's discretion. No petition will be accepted that does not reach the Commission by 4:00 p.m. (Washington, D.C. time) on the workday following the Commission's action.

§ 1104.9 [Amended]

3. Add a sentence at the end of 49 CFR 1104.9(b). As amended § 1104.9(b) reads as follows:

(b) One copy of each statement excluding the news release, shall be sent by first-class mail (1) to each of the regional and district offices of the Commission in the area affected by the proposed increase, where it will be open to public inspection; (2) to the State regulatory agency responsible for such matters in States served by the carrier and affected by the proposal; and (3) to each party of record in the last formal proceeding concerning a general rate increase in the affected area or territory. However, one copy of each statement, excluding the news release, shall be sent by express mail to any person undertaking to bear the cost. Written request for this expedited service must be made no less than 5 days before the statement is due to be filed with the Commission.

This rulemaking does not significantly affect either the quality of the human environmental or conservation of energy resources.

These rules are promulgated pursuant to authority under 49 U.S.C. 10321, 10521, 10708, and 5 U.S.C. 553.

Dated: July 3, 1980.

By the Commission, Chairman Gaskins, Vice-Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam.

Agatha I. Mergenovich,

Secretary.

[FR Doc. 80–21616 Filed 7–17–80; 8:45 am]

BILLING CODE 7035–01–M

Proposed Rules

Federal Register
Vol. 45, No. 140
Friday, July 18, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Parts 713 and 730

Feed Grain, Upland Cotton, Wheat and Rice Programs for Corp Years 1978-1981; Charging Interest on Refunds of Overpayments

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: Under this proposed rule, a producer who does not refund an overpayment with respect to payments made under one or more of the feed grain, upland cotton, wheat and rice programs within 30 days from the billing date will be charged interest. Also, the interest rate now charged on overpayments to rice producers and to those producers who it is determined obtained the overpayment through misrepresentation will be changed.

DATES: Comments should be submitted on or before September 16, 1980.

ADDRESS: Interest persons are invited to send written comments to Director, Production Adjustment Division; Agricultural Stabilization and Conservation Service, USDA, Room 3630-S; P.O. Box 2415, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Charles J. Riley, at the above address. (202) 447-7633. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: Program titles and numbers from the "Catalog of Federal Domestic Assistance" are: Cotton Production Stabilization, 10.052; Feed Grain Production Stabilization, 10.055; Wheat Production Stabilization, 10.058; and Rice Production Stabilization, 10.065. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local government are informed of this action. This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant". In complicance with Secretary's Memorandum No. 1955 and "Improving USDA Regulations" (43 FR 50988 November 1, 1978), it is determined after review of these regulations contained in 7 CFR Parts 713 and 730 for need, currency, clarity, and effectiveness, that no additional changes be proposed at this time. Any comments which are offered during the public comment period on these proposals, however, will be evaluated in development of the final rule.

The current regulations governing the feed grain, upland cotton, and wheat programs (7 CFR Part 713), and the regulations which apply to the rice program (7 CFR Part 730) require that all payments made to producers under those programs which are not earned by the producer must be refunded to the Agricultural Stabilization and Conservation Service (ASCS). Interest is not charged on these overpayments where a producer actually earned a part of the same type of payment (i.e., deficiency and disaster, diversion) for any crop or where the payment was erroneously made to a producer through not fault of that particular producer. Currently, interest is charged in all other cases from the date of payment to the date of refund. The present interest rate under Part 713 is the rate charged for Commoditiy Credit Corporation (CCC) price support loans. The rate charged under regulations governing the rice program in Part 730 is 7 percent per year.

These proposed rules are intended to amend and supplement the current rules as follows:

1. The current rules do not distinguish between the producer who deliberately misrepresents a fact involving program requirements and the producer who does not. For example, when advance payments are made under the programs, a producer can receive an advance payment based on an honest intention to comply with the program requirements, change his or her mind, and have to refund the payment. This producer would currently be charged the same rate of interest as one who received advance payments under the programs but never had an intention of complying with program requirements. Under the proposed rule, producers who are determined to have misrepresented a fact involving program requirements or who are determined to have engaged in a scheme or device to defeat the purpose of the program would be liable for payment of interest on the principal amount of the program payment at the rate of 18 percent per year from the date of the payment to the date of the refund.

2. The current rules do not provide adequate incentive for a producer to refund overpayments made under the programs. Under the regulations now in effect, a producer is not charged interest with respect to program overpayments when a producer earns part of the same type of payment for any crop. Thus, the producer, in effect, has an interest-free loan until the overpayment is refunded. Under the proposed rules, a producer who does not refund and overpayment within 30 days from the billing date (date of the issuance of the letter demanding refund of the program overpayment) will be charged interest from the billing date until such refund is made.

3. The interest rate charged for overpayments under the rice program is unrealistically low. The proposed rule provides for interest charged at the rate of interest charged by CCC will respect to price support loans.

These proposed changes are in general conformance with the overall policy for the Federal Government set by the Federal Claims Collection Standards (4 CFR Part 101). Accordingly, comments are invited on the proposal to amend the regulations appearing at 7 CFR Parts 713 and 730 as follows:

Proposed Rules

1. Section 713.15 is amended by revising paragraph (e) to read as follows:

§ 713.15 General payment provisions.

* * * * *

(e) *Unearned Payments and Overpayments.* The producer shall refund to Commodity Credit Corporation (CCC) any amounts representing payments that exceed the payments actually earned under the programs prescribed by this part. Such refunds are

due and payable to CCC within 30 days from the date of billing.

(1) Refunds are following not made within 30 days from the date of billing are delinquent and shall accrue interest from the date billed until the date paid, at the CCC commodity loan interest rate in effect on the billing date.

(i) An unearned payment received through no fault of the producer.

(ii) An overpayment involving deficiency or disaster payments, if the producer earns any deficiency or disaster payments for any crop for the farm under Part 713 and 730 of this chapter.

(iii) An overpayment involving voluntary diversion payments, if the producer earns any voluntary diversion payment for any crop for the farm under Parts 713 and 730 of this chapter.

(iv) An overpayment involving wheat grazing and hay payments, if the producer earns any wheat grazing and hay payment for the farm.

(2) Refunds not covered by paragraph (e)(1) of this section shall accrue interest from the date of disbursement until the date paid, at the CCC commodity loan interest rate in effect on the billing date.

2. Section 730.24 is amended by revising paragraph (e) to read as follows:

§ 730.24 General payment provisions.

* * * * *

(e) *Unearned Payment and Overpayments.* The producer shall refund to Commodity Credit Corporation (CCC) any amounts representing payments that exceed the payments actually earned under the programs prescribed by this part. Such refunds are due and payable to CCC within 30 days from the date of billing.

(1) Refunds of the following not made within 30 days from the date of billing are delinquent and shall accrue interest from the date billed until the date paid, at the CCC commodity loan interest rate in effect on the billing date.

(i) An unearned payment received through no fault of the producer.

(ii) An overpayment involving deficiency or disaster payments, if the producer earns any deficiency or disaster payments for any crop for the farm under Parts 713 and 730 of this chapter.

(iii) An overpayment involving voluntary diversion payments, if the producer earns any voluntary diversion payment for any crop for the farm under Parts 713 and 730 of this chapter.

(iv) An overpayment involving wheat grazing and hay payments, if the producer earns any wheat grazing and hay payment for the farm.

(2) Refunds not covered by paragraph (e)(1) of this section shall accrue interest from the date of disbursement until the date paid, at the CCC commodity loan interest rate in effect on the billing date.

3. Section 713.22 is amended by redesignating paragraph (c) as paragraph (d) and adding a new paragraph (c) to read as follows:

§ 713.22 Misrepresentation and scheme or device.

* * * * *

(c) Refunds due CCC under the provisions of this section shall bear interest at the rate of 18 percent per year. Such interest shall accrue from the date of disbursement to the date refunded.

4. Section 730.30 is amended by redesignating paragraph (c) as paragraph (d) and adding a new paragraph (c) to read as follows:

§ 730.30 Misrepresentation and scheme or device.

* * * * *

(c) Refunds due CCC under the provisions of this section shall bear interest at the rate of 18 percent per year. Such interest shall accrue from the date of disbursement to the date refunded.

Signed at Washington, D.C., on July 11, 1980.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-21517 Filed 7-17-80; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 922

Apricots Grown in Designated Counties in Washington; Proposed Extension of Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice proposes to continue the currently effective grade and size requirements on the handling of fresh Washington apricots. These requirements are designed to provide for orderly marketing in the interest of producers and consumers.

DATES: Written comments must be received by August 1, 1980. Proposed effective date: August 16, 1980.

ADDRESS: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be made available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C., 20250, telephone 202-447-5975. The Draft Impact Analyses relative to this proposed rule is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and classified "not significant." The proposal is being published with less than a 60-day comment period because there is insufficient time between the date when the information upon which it is based became available and the effective date necessary to effectuate the declared policy of the act. Apricot Regulation 20 (§ 922.320 45 FR 42589) sets forth the grade and size requirements on the handling of fresh Washington apricots effective through August 15, 1980. This proposed amendment would continue these requirements for the period August 16, 1980, through July 31, 1981.

This proposed amendment is issued under the marketing agreement, as amended, and Order No. 922, as amended (7 CFR Part 922), regulating the handling of fresh apricots grown in designated counties in Washington State. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Washington Apricot Marketing Committee and upon other information.

The committee estimated that 2,000 tons of apricots will be available for fresh shipment during the 1980 season compared to actual shipment of 2,012 tons last season. The grade and size requirements are designed to prevent the shipment of Washington apricots of a lower grade and smaller size than specified and are designed to continue to provide ample supplies of good quality apricots in the interest of producers and consumers pursuant to the declared policy of the act.

The proposal is that § 922.320 Apricot Regulation 20 (45 FR 42589) be amended to read as follows:

§ 922.320 Apricot regulation 20.

(a) During the period August 16, 1980, through July 31, 1981, no handler shall handle any container of apricots unless such apricots meet the following applicable requirements, or are handled

in accordance with subparagraph (3) of this paragraph:

(1) *Minimum grade and maturity requirements.* Such apricots grade not less than Washington No. 1 and are at least reasonably uniform in color: *Provided,* That such apricots of the Moorpark variety in open containers shall be generally well matured; and

(2) *Minimum size requirements.* Such apricots measure not less than 1⅝ inches in diameter except that apricots of the Blenheim, Blenril, and Tilton varieties may measure not less than 1¼ inches: *Provided,* That not more than 10 percent, by count, of such apricots may fail to meet the applicable minimum diameter requirement.

(3) Notwithstanding any other provision of this section, any individual shipment of apricots which meets each of the following requirements may be handled without regard to the provisions of this paragraph, of § 922.41 (Assessments), and of § 922.55 (Inspection and Certification):

(i) The shipment consists of apricots sold for home use and not for resale;

(ii) The shipment does not, in the aggregate, exceed 500 pounds, net weight, of apricots; and

(iii) Each container is stamped or marked with the words "not for resale" in letters at least one-half inch in height.

(b) Terms used in the amended marketing agreement and order shall when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; "diameter" and "Washington No. 1" shall have the same meaning as when used in the State of Washington Department of Agriculture Standards for Apricots, effective May 31, 1966: "reasonably uniform in color" means that the apricots in the individual container do not show sufficient variation in color to materially affect the general appearance of the apricots; and "generally well matured" means that with respect to not less than 90 percent, by count, of the apricots in any lot of containers, and not less than 85 percent, by count, of such apricots in any container in such lot, at least 40 percent of the surface area of the fruit is at least as yellow as Shade 3 on U.S.

Dated: July 14, 1980.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-21519 Filed 7-17-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 948

Irish Potatoes Grown in Colorado, Area No. 3; Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would require fresh market shipments of potatoes grown in Colorado Area No. 3 to be inspected and meet minimum grade, size and maturity requirements. The regulation should promote orderly marketing of such potatoes and keep less desirable qualities and sizes from being shipped to consumers.

DATE: Comments due by July 28, 1980.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077-S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-2615. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

Marketing Agreement No. 97 and Order No. 948, both as amended, regulate the handling of potatoes grown in designated counties of Colorado Area No. 3. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Colorado Area No. 3 Potato Committee, established under the order, is responsible for its local administration.

This notice is based upon recommendations made by the committee at its public meeting in Greeley, Colorado, on June 10, 1980.

The grade, size, maturity and inspection requirements recommended herein are similar to those which have been issued during past seasons. They are necessary to prevent potatoes of poor quality or undesirable sizes from being distributed to fresh market outlets. The specific proposals, hereinafter set forth, would benefit consumers and producers by standardizing and improving the quality of the potatoes shipped from the production area.

Exceptions would be provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable.

Shipments would be permitted to certain special purpose outlets without regard to the grade, size, maturity and inspection requirements, provided that safeguards were met to prevent such potatoes from reaching unauthorized outlets. Certified seed would be exempt because requirements for this outlet differ greatly from those for fresh market. Shipments for use as livestock feed would likewise be exempt. Since no purpose would be served by regulating potatoes used for charity purposes, such shipments would be exempt. Also potatoes for most processing uses are exempt under the legislative authority for this part.

Potatoes for prepeeling would be handled without regard to maturity requirements since skinning of such potatoes would be of no consequence. Also, the maturity requirements terminate on December 31 because at that stage of the marketing season potatoes are generally mature with skins firmly set.

In order to maximize the benefits of orderly marketing the proposed regulation should become effective by August 1 when fresh market shipments are expected in volume. Interested persons were given an opportunity to comment on the proposal at an open public meeting held at Greeley, Colorado, on June 10 where it was unanimously recommended by the committee. This proposal is similar to regulations in effect for past seasons. It is hereby determined that the ten days allowed for comments should be sufficient under these circumstances and will effectuate the declared policy of the act.

It is proposed that § 948.381 (44 FR 41173, July 16, 1979) be deleted and a new § 948.383 be added as follows:

§ 948.383 Handling regulation.

During the period August 1, 1980, through June 30, 1981, no person shall handle any lot of potatoes grown in Area No. 3 unless such potatoes meet the requirements of paragraphs (a), (b) and (c) of this section, or unless such potatoes are handled in accordance with paragraphs (d) and (e), or (f) of this section.

(a) *Grade and size requirements—All varieties.* U.S. No. 2 or better grade, 1⅞ inches minimum diameter or 4 ounces

minimum weight. However, Size B may be handled if U.S. No. 1 grade.

(b) *Maturity (skinning) requirements—All varieties.* Through December 31, 1980, for U.S. No. 2 grade, not more than "moderately skinned," and for all other grades, not more than "slightly skinned"; thereafter no maturity requirements.

(c) *Inspection.* (1) No handler shall handle any potatoes for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment. For purpose of operation under this part it is hereby determined pursuant to paragraph (d) of § 948.40, that each inspection certificate shall be valid for a period not to exceed five days following the date of inspection as shown on the inspection certificate.

(2) No handler may transport or cause the transportation by motor vehicle of any shipment of potatoes for which an inspection certificate is required unless each shipment is accompanied by a copy of the inspection certificate applicable thereto and the copy is made available for examination at any time upon request.

(d) *Special purpose shipments.* (1) The grade, size, maturity and inspection requirements of paragraphs (a), (b), and (c) of this section shall not be applicable to shipments of potatoes for:

(i) Livestock feed;

(ii) Charity;

(iii) Canning, freezing, and "other processing" as hereinafter defined; and

(iv) Certified seed potatoes (§ 948.6).

(2) The maturity requirements set forth in paragraph (b) of this section shall not be applicable to shipments of potatoes for prepeeling.

(e) *Safeguards.* Each handler making shipments of potatoes pursuant to paragraph (d) of this section shall:

(1) Prior to shipment, apply for and obtain a Certificate of Privilege from the committee;

(2) Furnish the committee such reports and documents as required, including certification by the buyer or receiver on the use of such potatoes; and

(3) Bill each shipment directly to the applicable buyer or receiver.

(f) *Minimum quantity.* For purposes of regulation under this part, each person may handle up to but not to exceed 1,000 pounds of potatoes per shipment without regard to the requirements of paragraphs (a) and (b) of this section, but this exception shall not apply to any shipment of over 1,000 pounds of potatoes.

(g) *Definitions.* The terms "U.S. No. 1," "U.S. No. 2," "Size B," "moderately skinned" and "slightly skinned" shall have the same meaning as when used in the United States Standards for Grades of Potatoes (7 CFR 2851.1540–2851.1566) including the tolerances set forth therein. The term "prepeeling" means the commercial preparation in a prepeeling plant of clean, sound, fresh potatoes by washing, peeling or otherwise removing the outerskin, trimming, sorting, and properly treating to prevent discoloration preparatory to sale in one or more of the styles of peeled potatoes described in § 2852.2422 United States Standards for Grades of Peeled Potatoes (7 CFR 2852.2421–2852.2433). The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing." All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97, as amended, and this part.

(h) *Applicability to imports.* Pursuant to § 8e of the act and § 980.1, "Import regulations" (7 CFR 980.1), round white varieties of Irish potatoes, except certified seed potatoes, imported into the United States during the period August 1, 1980, through June 4, 1981, shall meet the minimum grade, size, quality, and maturity requirements specified in paragraphs (a) and (b) of this section.

Dated: July 15, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-21689 Filed 7-17-80; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Parts 1097 and 1108

[Docket Nos. AO-219-A36, AO-237-A30, AO-243-A34]

Milk in the Memphis, Tenn.; Fort Smith, Ark.; and Central Arkansas Marketing Areas; Partial Decision on Proposed Amendments to Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision adopts on an emergency basis changes in the pooling provisions of the Central Arkansas order and the location adjustment provisions under the Memphis order. The changes were considered at a public hearing held April 15–17, 1980. The amendments would continue to regulate under the Central Arkansas order a distributing plant that was regulated under such order in the preceding month and that meets the pooling requirements of such order and of another Federal order during the current month even though the plant has more sales in the other market. For a plant located within the Central Arkansas marketing area, the amendments provide that the plant would continue to be pooled under the Central Arkansas order until the third consecutive month in which the plant has at least half of its sales in another Federal order market. For a plant located outside the marketing area, the Central Arkansas order would continue to regulate the plant until the third consecutive month in which the greater proportion of the plant's sales is made in another Federal order market. The amendment of the Memphis order would eliminate any adjustment of the Class I and uniform prices for plant location for milk received at plants located within the Central Arkansas marketing area.

The changes are necessary to reflect current marketing conditions and to insure orderly marketing in the regulated areas. Marketing conditions are such that prompt amendatory action is required. For this reason, a recommended decision and an opportunity to file exceptions thereto have been omitted. The remaining issues of the hearing will be considered in a later decision on this record.

FOR FURTHER INFORMATION CONTACT:

Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–4824.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of hearing—issued March 26, 1980; published March 31, 1980 (45 FR 20888). Supplemental notice of hearing—issued April 7, 1980; published April 10, 1980 (45 FR 24492).

A public hearing was held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the Memphis, Fort Smith, and Central Arkansas marketing areas. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Memphis, Tennessee, on April 15–17, 1980. Notices of such hearing were issued March 26, 1980 (45 FR 20888) and April 7, 1980 (45 FR 24492).

The material issues on the record relate to:

1. Partial payments to producers and cooperative associations under the Memphis, Fort Smith, and Central Arkansas orders.
2. Charges on overdue accounts under the Memphis, Fort Smith, and Central Arkansas orders.
3. Maximum administrative assessment rate under the Memphis, Fort Smith, and Central Arkansas orders.
4. Maximum marketing service deduction under the Fort Smith and Central Arkansas orders.
5. Payment of producers and cooperative associations through the market administrator under the Fort Smith and Central Arkansas orders.
6. Payments for milk from cooperative association plants under the Memphis and Central Arkansas orders.
7. Pool plant "lock-in" provision under the Central Arkansas order for distributing plants.
8. Pool supply plant qualifications under the Central Arkansas order.
9. Quantity limits and point of pricing on diversions of producer milk under Central Arkansas order.
10. Location adjustment provisions of the Central Arkansas order.
11. Location adjustment provisions of the Memphis order.
12. Miscellaneous changes.
13. Whether an emergency exists to warrant the omission of a recommended decision on issues Nos. 7 and 11.

This decision deals only with issues Nos. 7, 11, and 13. The remaining issues of the hearing will be considered in a later decision on this record.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

7. *Pool plant "lock-in" provision under the Central Arkansas order for distribution plants.* The pool plant provisions of the Central Arkansas order should be revised to provide that a distributing plant which was a pool plant under such order in the immediately preceding month and which qualifies during the current month as a pool distributing plant under the Central Arkansas order and another Federal order shall continue to be subject to all the provisions of the Central Arkansas order even though the plant disposes of a greater proportion of its route disposition in the marketing area of another Federal order. If the plant is located within the Central Arkansas marketing area, it should continue to be regulated under the order for that area until the third consecutive month in which the plant has 50 percent or more of its sales, except filled milk, in another Federal order marketing area. If the plant is located outside the marketing area, it should continue to be regulated under the Central Arkansas order until the third consecutive month in which the greater proportion of the plant's sales, except filled milk, is made in another Federal order marketing area. None of the above provisions would apply in the event another Federal order requires that the plant be regulated under that order.

The current order provisions provide that a distributing plant which meets the pooling provisions of another Federal order shall not be a pool plant under the Central Arkansas order until a greater volume of Class I milk, except filled milk, is disposed of from such plant during the immediately preceding 6-month period to retail and wholesale outlets (except pool plants or nonpool plants) in the Central Arkansas marketing area than is disposed of in the marketing area regulated pursuant to such other order.

Associated Milk Producers, Inc. (AMPI), a cooperative association in the market, proposed a change in the pooling provisions for a plant that qualifies for pooling under more than one order in the same month. The cooperative proposed that any such distributing plant located within the Central Arkansas marketing area, if it qualifies as a pool plant during the preceding month, be "locked in" as a Central Arkansas pool plant until the third consecutive month in which the plant has 50 percent or more of its sales in the marketing area of another Federal order. The proposal was directed toward a new distributing plant at Little Rock, Arkansas, that was scheduled at the time of the hearing to begin operations sometime after June 1, 1980, as Gold Star Dairy. If the plant qualified as a pool plant under both the Central Arkansas order and another Federal order, it was the intent under the proposal that the plant be a pool distributing plant under the Central Arkansas order until the third consecutive month in which it has at least half of its route sales in another Federal order market.

The cooperative requested in its brief that the order provisions be amended to provide that any distributing plant in the Central Arkansas marketing area that meets the pooling provisions of the Central Arkansas order shall be regulated by that order during the first month that the proposed amendments are effective notwithstanding the fact that a greater share of the plant's route disposition may be in another marketing area.

This was proposed since both the Memphis and greater Louisiana orders provide that a plant pooled under one of those orders during the preceding month would continue to be regulated under such order until the third consecutive month in which the plant has a greater proportion of its sales in the marketing area of another Federal order. Thus, if before the Central Arkansas order is amended the Gold Star Dairy is pooled under either the Memphis or Greater Louisiana order, the plant would continue to be regulated by such order until the third month in which it had greater sales in another Federal order marketing area. In that event, the cooperative pointed out, Gold Star Dairy could find itself initially regulated under either the Memphis or Greater Louisiana orders, which is the result that proponents are trying to avoid by the "lock-in" provisions.

AMPI also proposed that a similar lock-in provision apply to pool distributing plants located outside the Central Arkansas marketing area. For such plants the lock-in would apply until the third consecutive month in which a greater proportion of the plant's route disposition is in the marketing area of another Federal order.

The cooperative proposed these provisions to eliminate the possibility of frequent shifts in the pooling of a distributing plant from one order to another as a result of changes in the plant's intermarket sales. The changes were intended to provide market stability for the plant and producers supplying it and greater equity in milk costs among competing handlers.

The manager of Gold Star Dairy testified at the hearing in support of the lock-in proposals. He indicated that at the time of the hearing construction of the plant was about 95 percent complete, and that distribution from the plant was expected to begin in June 1980. He pointed out that the projected method of distribution of the plant in the Central Arkansas, Memphis, and Greater Louisiana marketing areas would be by delivery of fluid milk products to warehouses located in those markets. He testified that the projected pattern of distribution was such that the plant would probably meet the pool distributing plant provisions of all three orders and could shift from month to month from one order to another. He stated that this would be "an impossible condition to live with since it could change our Class I cost by 47 cents in any month under present provisions."

A proprietary handler located in Memphis submitted a brief in support of the "lock-in" provision. The handler noted that in the absence of such provision the plant, by shifting regulation among the 3 orders, would have a destabilizing influence in the areas involved.

For reasons described later, Gold Star Dairy should be regulated under the Central Arkansas order, if it qualifies for pooling under this and another order, until the third consecutive month that the plant has 50 percent or more of its sales in the marketing area of another order. However, the requirement that the plant must have been a pool plant under this order in the immediately preceding month should not apply until the second month that the amended order is effective. Also, the plant, if it qualifies for pooling under more than one order, should be regulated under this order during the first month that the amended order is effective even though the plant has a greater proportion of its sales within the marketing area of another Federal order. In the absence of these transitionary modifications, the plant could be precluded from being regulated by the Central Arkansas order at the outset of the order changes even though the plant has an adequate association with the Central Arkansas market.

In order to accommodate the pooling of the Gold Star Dairy under the Central Arkansas order at the earliest practicable date, it is also necessary to remove the current order provisions which provide that a distributing plant shall not be a pool plant under this order until a greater volume of Class I milk is disposed of from such plant during the immediately preceding 6-month period in this marketing area than is disposed of in the marketing area of another Federal order.

The projected sales pattern of the Gold Star Dairy is such that the plant could easily become pooled under either the Central Arkansas, Memphis, or Greater Louisiana order with only a slight shift in the plant's sales among the three markets. Such shift would not occur on a month-to-month basis because of the "lock-in" or "lock-out" provisions already noted for these orders. However, the existence of the "lock-in" provisions of the Memphis and Greater Louisiana orders and the current "lock-out" provision of the Central Arkansas order does not preclude the possibility that regulation of the Gold Star Dairy might shift periodically among the three markets.

Such shifts in regulation would not provide the kind of market stability that is contemplated under the Federal order program. For example, under the current pricing provisions of these orders, the Class I price at a Little Rock plant pooled under one or another of these orders could vary considerably with a shift in regulation. The Class I differential at that location under the Central Arkansas order is $1.94. Under the Memphis order, the Class I differential at Little Rock is $1.73 ($1.94 Class I differential at Memphis minus a 21-cent location adjustment). If regulated by the Greater Louisiana order, the plant at Little Rock would have a Class I differential of $2.20 ($2.47 Class I differential at the base zone minus a 27-cent location adjustment).

A change in the location adjustment provision of the Memphis order, as discussed later, would result in a $1.94 Class I differential at the Gold Star Dairy's location if the plant were to become regulated under the Memphis order. Such a change would minimize the pricing problems associated with the pooling of the plant under the Memphis order.

Alternatives other than a lock-in provision are not available in this proceeding for dealing with the Class I price change that would result if Gold Star Dairy were to become regulated under the Greater Louisiana order since neither the location adjustment provisions or any other provisions of the Greater Louisiana order were open for consideration at this hearing. Thus, the only viable alternative that exists for stabilizing the marketing situation for the handler in terms of the Greater Louisiana order is to provide that the plant shall continue to be pooled by the Central Arkansas order until the third consecutive month in which it has 50 percent or more of its sales in another Federal order marketing area.

A handler who operates a distributing plant with intermarket distribution sufficient to qualify the plant for pooling under more than one order cannot plan with any certainty which prices and other provisions might apply under the current order provisions. The changes that occur when a plant shifts regulation between orders on a periodic basis can be disruptive to the handler and to the producers supplying him and should be minimized to the extent possible. This can be accomplished by providing that a plant which has been regulated under the Central Arkansas order shall continue to be regulated by such order until there is a reasonable indication that the plant has a greater association with another market on a continuing basis.

The pool plant provisions adopted herein differ to some extent from the traditional method under the order program of determining where a plant should be regulated when it qualifies for pooling under more than one order. The traditional position on this point is that a plant should be pooled under the order regulating the market in which the plant has the most sales during the month. This insures that all handlers having their principal sales in a market are subject to the same prices and other regulatory provisions as their main competitors. At times, however, a handler may have nearly the same amount of sales in each market, and only minor changes in his sales pattern would be sufficient to cause the plant to shift its regulatory status back and forth between the two orders. In recognition of this, orders commonly provide that a plant will not shift from one order to another until the third consecutive month in which the plant has greater sales in the other market. This precludes frequent shifts in regulation that can be disruptive to the markets involved.

While this concept of temporarily "locking" a pool plant into a market is appropriate for the Central Arkansas market, special consideration needs to be given to the circumstances facing the new distributing plant at Little Rock. This plant could be seriously disadvantaged if it were regulated in the market in which the greater proportion of its sales are made. Because the plant distributes milk in three markets, its distribution pattern could result in the majority of its sales being made in areas in competition with handlers who have a substantially lower Class I price. For example, the Gold Star Dairy under traditional pooling practice would be regulated by the Greater Louisiana order if the plant had 34 percent of its sales in that market and the remaining 66 percent of its sales evenly divided between the Central Arkansas and Memphis markets. If regulated by the Greater Louisiana order, the plant operator would be obligated to pay a $2.20 Class I differential for all milk in Class I uses. Under such circumstances, the plant operator would be selling 66 percent of his Class I products in competition with handlers who have a 26-cent lower price. Such pricing would result in a serious competitive disadvantage for the handler. This disadvantage can be minimized by providing that the plant be initially regulated by the Central Arkansas order and that it continue to be regulated by such order until it has 50 percent of its sales in the marketing area of another Federal order. Such provision will provide the plant operator with an improved competitive situation since the Class I price applicable at the plant's

location on the majority of its sales then would be the same Class I price required to be paid by the plant operator's primary competitors.

To deal with the shifts in regulation confronting current and prospective pool plants under the Central Arkansas order, the order should be amended to provide one standard for pool plants located within the marketing area and another standard for pool plants located outside the marketing area. As previously noted, the amendments provide that distributing plants located within the marketing area would continue to be pooled under this order until the third consecutive month in which the plant had 50 percent or more of its sales in the marketing area of another Federal order. This standard should be limited to pool plants within the marketing area in order to avoid continuous pooling of a distant plant that has sales in three or more markets and in most months has a greater association with a Federal order marketing area other than Central Arkansas. Unless the area restriction is included, a plant that normally has 35 percent of its sales in the Central Arkansas marketing area, 20 percent in a second marketing area, and 45 percent in the market in which the plant is located could be locked in as a pool plant indefinitely in the Central Arkansas market by becoming newly regulated as a result of being awarded a short-term contract to supply milk to schools, military bases, hospitals, or other institutions in the Central Arkansas area.

Although no particular basis was presented on this record for extending the application of this particular provision which is designed to facilitate the pooling of the Gold Star Dairy to other plants located within the marketing area, no other alternative was presented. Furthermore, there was no opposition to the marketing area limitation. Thus, such limitation is used as a means of dealing with this particular situation. It is reasonable to assume that a plant that is located within the marketing area would most likely have a very substantial proportion of its sales within such area.

Provisions for the continued pooling of a distributing plant under the Central Arkansas order should also be provided for pool plants located outside the marketing area. Under the amendments adopted herein, a plant would continue to be regulated under this order until the third consecutive month in which the plant disposed of the greater proportion of its route sales in the marketing area of another order. This procedure is now provided in the Memphis order. It should be extended to the Central Arkansas order to limit the disruptive shifting between orders on a frequent basis that can occur when intermarket distribution results in qualifying a distributing plant for pooling under more than one order.

In the absence of the changes adopted herein, the plant operator would not know with any degree of certainly until the end of the month during which the sales are made the order under which the plant would be regulated. Under such circumstances, it would be virtually impossible for a handler to make rational business decisions since he would not know the price he is obligated to pay for Class I milk until he knows under which order the plant is regulated.

11. *Location adjustment provisions of the Memphis order.* The provisions of the Memphis order should be revised to provide that no location adjustment shall apply at a plant located within the current marketing area of the Central Arkansas order.

The Memphis order currently provides that a location adjustment of minus 9 cents shall apply to the Class I price and the uniform price for milk received at a plant located outside the State of Mississippi and 50 miles but less than 60 miles from the city hall in Memphis. For each 10 miles in excess of 50 miles, the Class I price to the handler and the uniform price to producers at that plant location is reduced an additional 1.5 cents. As a consequence, minus location adjustments now apply to all plants located in the State of Arkansas that are regulated under the Memphis order and are located more than 50 miles from Memphis. For a plant located at Little Rock, a minus 21-cent location adjustment applies.

AMPI proposed that the order be revised to provide that no location adjustment apply at a plant located in the Central Arkansas marketing area. This change was supported at the hearing by Gold Star Dairy, the new distributing plant at Little Rock, Arkansas, that initially could be affected by the change. In its brief, the operator of a proprietary pool plant in Memphis also supported the proposed revision.

The change adopted herein for the Memphis order is needed in conjunction with the "lock-in" provision for the Central Arkansas order that was discussed under the previous issue. This would assure that the $1.94 Class I differential applicable at the Gold Star Dairy under the Central Arkansas order would continue to apply if the plant were to become fully regulated at some future time under the Memphis order. As noted in the earlier discussion, a pool plant under the Central Arkansas order that is located within the marketing area of that order could become a pool plant under another Federal order during the third consecutive month in which the plant had 50 percent or more of its sales in the marketing area of such other Federal order. Thus, Gold Star Dairy could become regulated under the Memphis order if it distributed 50 percent or more of its route sales in that market for 3 consecutive months.

In this situation, the Class I price for milk received from dairy farmers at two different milk plants in Little Rock could differ by 21 cents. A plant selling the majority of its milk in the Central Arkansas market and regulated under the Central Arkansas order would have a Class I differential of $1.94. The other plant selling the majority of its milk in the Memphis market and regulated under the Memphis order would have a Class I differential of $1.73. In such circumstance, the Memphis order plant with the 21-cent lower price would have an unwarranted economic advantage in competing in the local Little Rock market with nearby handlers who are regulated under the Central Arkansas order.

A further problem is that in the event Gold Star Dairy were to become regulated under the Memphis order, it would experience difficulties in attracting adequate supplies of milk for fluid use. With a 21-cent decrease in the handler's Class I differential, producers who had been supplying the plant when it was pooled under the Central Arkansas order could be expected to seek new outlets that would permit them to stay on the Central Arkansas market. Testimony at the hearing indicates that Gold Star Dairy plans to obtain its milk supply from AMPI. A representative of the cooperative pointed out, however, that AMPI presumably would not supply milk at any less than the Central Arkansas price.

Although Gold Star Dairy or other handlers similarly situated probably would have to pay essentially the Central Arkansas Class I price even though regulated under the Memphis order, there still would be an opportunity for negotiating a slightly lower price with producers if the current Memphis order price at Little Rock were maintained. This could result not only in unjustified price differences among competing handlers located in the same area but also in an unsettled marketing situation for producers or their cooperatives who are seeking a steady outlet for their milk.

Permitting a plant at Little Rock to have a 21-cent lower Class I price when

regulation of the plant shifts from the Central Arkansas order to the Memphis order thus could have a destabilizing effect upon the Central Arkansas market with respect to producers and handlers. Therefore, the Memphis order should be revised to provide a Class I differential of $1.94 at the Little Rock location.

This should be accomplished by providing under the Memphis order that no location adjustment shall apply for milk received at any plant located in the area which now comprises the marketing area of the Central Arkansas order. To carry this out, the location adjustment provision would specify each of the counties now within the Central Arkansas marketing area as areas in which no location adjustment would apply under the Memphis order. By limiting the no location adjustment zone as provided herein, a $1.94 Class I differential would be applicable to any plant regulated under the Memphis order that is located in the Central Arkansas marketing area. Such Class I differential is currently applicable under the Central Arkansas order for any plant located in the Central Arkansas marketing area. Thus, the revision adopted herein assures that any plant located in the Central Arkansas marketing area would have an identical Class I price whether regulated by the Memphis or the Central Arkansas order.

13. *Emergency action.* The due and timely execution of the functions of the Secretary under the Act imperatively and unavoidably requires the omission of a recommended decision and the opportunity to file exceptions thereto with respect to Issues Nos. 7 and 11. The continued orderly marketing of milk requires that the operator of a distributing plant scheduled to begin operations in June 1980 know with reasonable certainty the Class I pricing provisions applicable at such plant. In the absence of the provisions adopted herein, the Class I price at the plant could vary by as much as 47 cents per hundredweight depending upon whether the plant is regulated under the Memphis Central Arkansas, or Greater Louisiana orders. Without the adoption of the proposed changes, the plant operator would not know with any degree of certainty until the end of the month during which Class I distribution is made the Federal order under which the plant would be regulated. Until the plant operator knows under which order the plant is regulated, he would not know the price he would be obligated to pay for Class I milk. As the operator of the plant pointed out, such situation in which the production costs of the product are not known at the time of sale makes it difficult for a plant operator to make rational business decisions in the operation of the plant.

The omission of a recommended decision was discussed at the hearing and no opposition to such procedure was expressed at the hearing. Moreover, the operator of the plant that is the object of the provisions for which emergency action was requested testified at the hearing in support of the amendatory action. The action was also supported in a brief filed by the operator of a proprietary pool plant under the Memphis order.

It is therefore found that good cause exists for omission of the recommended decision and the opportunity for filing exceptions thereto.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of this Memphis and Central Arkansas orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are made with respect to each of the aforesaid orders:

(a) The tentative marketing agreement an the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as detemined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tenative marketinng agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial an commercial activity specified in, a marketing agreement upon which a hearing has been held.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an ORDER amending the orders regulating the handling of milk in the Memphis and Central Arkansas marketing areas which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the Federal Register. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

May 1980 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the orders, as amended and as hereby proposed to be amended, regulating the handling of milk in the Memphis and Central Arkansas marketing areas is approved or favored by producers, as defined under the terms of each of the orders (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the respective marketing areas.

Note.—This decision has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this decision should not be classified "significant" under those criteria. This decision constitutes the Department's Final Impact Analysis Statement for this proceeding.

Signed at Washington, D.C., on: July 14, 1980.

Jerry Hill,

Deputy Assistant Secretary for Marketing Services.

Order [1] Amending the Orders, Regulating the Handling of Milk in the Memphis and Central Arkansas Marketing Areas

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the Memphis, Tennessee, and Central Arkansas orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are made with respect to each of the aforesaid orders:

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Memphis and Central Arkansas marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Memphis and Central Arkansas marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the orders, as amended, and as hereby amended, as follows:

PART 1097—MILK IN MEMPHIS, TENN., MARKETING AREA

In § 1097.52, all of that portion of the section preceding the table heading "Location of plant", is revised to read as follows:

§ 1097.52 Plant location adjustments for handlers.

For that milk which is received at a fluid milk plant (from producers or from a handler described in § 1097.9(c)), located outside the Arkansas counties, of Clark, Conway, Craighead, Cross, Faulkner, Garland, Grant, Hot Spring, Jefferson, Lee, Lonoke, Monroe, Phillips, Poinsett, Pope, Prairie, Pulaski, Saline, St. Francis, White, and Woodruff and 50 miles or more from the city hall in Memphis, Tennessee, by shortest hard-surfaced highway distance, as determined by the market administrator, and which is transferred in the form of products designated as Class I milk in § 1097.40(a) to another fluid milk plant and assigned to Class I pursuant to the calculation provided in this section, or otherwise classified as Class I milk, the price specified in § 1097.50(a) shall be adjusted at the rate set forth in the following schedule according to the location of the fluid milk plant where such milk is received:

* * * * *

PART 1108—MILK IN CENTRAL ARKANSAS MARKETING AREA

Section 1108.7(b)(2) is revised to read as follows:

§ 1108.7 Pool plant.

* * * * *

(b) * * *

(2) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, unless one of the following conditions applies:

(i) If the plant is located within the marketing area and was a pool plant under this order during the immediately preceding month (except that prior pool plant qualification need not be met during the first month that the amended order is effective), it shall continue to be subject to all of the provisions of this part until the third consecutive month in which 50 percent or more of the plant's route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order; or

(ii) If the plant is located outside the marketing area and was a pool plant under this order in the immediately preceding month, it shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of the plant's route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

* * * * *

[FR Doc. 80-21515 Filed 7-17-80; 8:45 am]
BILLING CODE 3410-02-M

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Animal and Plant Health Inspection Service

9 CFR Part 92

Importation of Cattle Exposed to Splenetic, Southern or Tick Fever or Fever Ticks; Withdrawal of Amendment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of withdrawal.

SUMMARY: This notice withdraws the Department's intent to amend the import regulations which provide for the importation of cattle which have been exposed to splenetic, southern or tick fever or have been infested with or exposed to fever ticks within 60 days preceding their importation into the State of Texas from Mexico.

EFFECTIVE DATE: July 11, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. D. E. Herrick, USDA, APHIS, VS, Federal Building, Room 815, Hyattsville, Maryland, 20782, (301) 436-8170.

SUPPLEMENTARY INFORMATION: On Friday, December 29, 1978, there was published in the Federal Register (43 FR 60932) an Advance Notice of Proposed Rulemaking to notify that a determination had been made by the Department that the practice of importing cattle into the State of Texas from Mexico which have been exposed to splenetic, southern or tick fever, or which have been infected with or exposed to fever ticks within the 60 days

preceding their movement to the port of entry would be reviewed.

A 90-day comment period was provided for the receipt of comments which expired March 29, 1979. A target date of January 1, 1980, was proposed by the Department for completion of the rulemaking process.

A total of five comments were received, four of which expressed opposition to the proposal.

One respondent expressed support of the proposal to achieve the common goal of maintaining healthy livestock.

The four comment received that opposed the proposal cited the following reasons for their objections:

One comment, signed by three persons, protested that the proposal would further cripple the economy of an area that continually has one of the highest unemployment rates and suggested that the amendment would adversely affect relations between the two neighboring countries.

One comment signed by 20 persons representing cattle interests in Texas called the proposal an undiplomatic approach. One other respondent, who opposed the proposal, was of the opinion that the proposal was a diplomatic blunder. Both of these comments suggested that a bilateral meeting of representatives of the two countries be arranged to consider the tick question.

The fourth comment stated that present port procedures were adequate to prevent entrance into the United States of both the disease and ticks, since there has never been a case of tick fever in the United States which was traced to legally imported cattle.

The number of tick infestations in Texas in FY 1979 was 28. Of this number only four could be traced definitely to Mexico and all four were determined to be a result of cattle smuggled from Mexico.

Further, the Mexican tick eradication program is moving ahead and its momentum is such that it should continue, without the need for this action.

Therefore, by means of this document the Department gives notice that the review of the circumstances proposed by the prenotice is now completed and it has been determined that 9 CFR Part 92.35(a)(2) will not be amended at this time. 9 CFR Part 92.35 will be reviewed in conjunction with the scheduled review of 9 CFR Part 92 unless regulatory objectives or public interest warrant an earlier review.

Done at Washington, D.C., this 11th day of July 1980.

J. K. Atwell,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-21518 Filed 7-17-80; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 320

[Docket No. 80N-0183]

Probenecid; Proposed Bioequivalence Requirements

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administation (FDA) proposes to establish a bioequivalence requirement for probenecid oral drug products. This action is taken because available data suggest that the various brands of probenecid may not have comparable therapeutic effects. The proposed regulation would ensure the bioequivalence of different brands of probenecid drug products and batch-to-batch uniformity of the same drug product by each manufacturer.

DATES: Comments by September 16, 1980. It is proposed that the final regulation based on this proposal be effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Henry J. Malinowski, Bureau of Drugs (HFD-522), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1640.

SUPPLEMENTARY INFORMATION: Regulations in Subpart C of Part 320 (21 CFR Part 320, Subpart C) set forth procedures for the Commissioner of Food and Drugs, on his own initiative or in response to a petition from an interested person, to propose and to establish bioequivalence requirements for drug products containing identical amounts of the same active ingredient and in the same dosage form that are intended to be used interchangeably for the same therapeutic effect and for which there is a know or potential bioequivalence problem. This authority to issue bioequivalence regulations for drug products for human use is delegated to the Director and Deputy Director of FDA's Bureau of Drugs by § 5.79 (21 CFR 5.79).

Data available to FDA show that there is well-documented evidence of actual or potential bioequivalence differences in oral formulations of probenecid among currently marketed brands of the same drug product produced by various manufacturers based on the criteria set forth in § 320.52 (21 CFR 320.52).

Therefore, the Director of the Bureau of Drugs, on his own initiative, tentatively concludes that a bioequivalence requirement involving in vivo testing in humans and in vitro dissolution testing should be established for probenecid drug products. The evidence on which the Director bases his tentative conclusion and the proposed bioequivalence requirements are discussed below.

Background

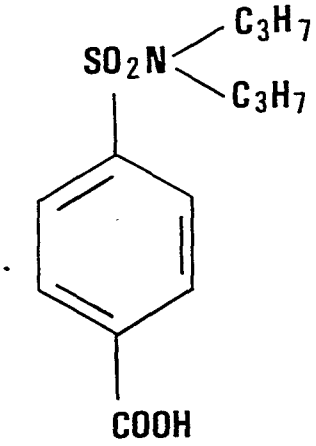
Probenecid (*p*-(di-*n*-propylsulfonyl)-benzoic acid) is used to enhance the plasma concentration of concomitantly administred penicillin and as an uricosuric agent in treating gout. It acts pharmacologically to inhibit renal tubular transport of organic acids. Probenecid blocks the renal tubular secretory transport of penicillin, depresses uric acid excretion after administration of small doses, and depresses uric acid reabsorption by the proximal tubule when administered in large doses (Ref. 2). These effects extend to other therapeutic and diagnostic agents, thus requiring modification of their dosage when concomitantly administered with probenecid.

When given orally (2 grams per day in four equal doses), probenecid is completely absorbed and has a half-life of 6 to 12 hours. Maximum plasma concentrations are reached in 2 to 4 hours. Eighty-five to 95 percent of the drug is bound to plasma protein. Active secretion of probenecid by the proximal tubule contributes to the drug's excretion from the body, yet the inbound drug is subject to glomerular filtration. These excretion processes are accompanied by back diffusion of undissociated probenecid in the kidney due to the drug's high lipid solubility. In addition, a small amount of probenecid glucuronide is produced as a result of metabolism, as are hydroxylated metabolites that have uricosuric activity (Ref. 2).

Although probenecid as generally well tolerated, side effects, such as gastrointestinal irritation and hypersensitivity reactions, have occurred. Manifestations of toxic reactions to probenecid overdosage include central nervous

system stimulation, convulsions, and respiratory failure.

The drug is depicted by the following structural formula:



Evidence to Establish a Bioequivalence Requirement

The Director considered the following criteria as set forth in § 320.52 *Criteria and evidence to establish a bioequivalence requirement* in tentatively concluding that these proposed bioequivalence requirements should be imposed upon probenecid oral drug products.

1. *Competent medical determination that a lack of bioequivalence of such drug products would have a serious adverse effect to the treatment or prevention of a serious disease or condition.* A significant lack of probenecid bioavailability when used concomitantly with penicillin would result in failure of the probenecid to block the renal secretion of penicillin resulting in decreased penicillin blood levels. Because of the higher penicillin clearance, serious infections such as the venereal diseases would be inadequately treated, the sequalae not becoming apparent until remedial action would be too late (Ref. 2).

2. *Physicochemical evidence that the active ingredient has a low solubility in water, e.g., less than 5 milligrams per 1 milliliter, or, if dissolution in the stomach is critical to absorption, the volume of gastric fluids required to dissolve the recommended dose far exceeds the volume of fluids present in the stomach (taken to be 100 milliliters for adults and prorated for infants and children.* Probenecid (pKa (negative logarithm of the dissociation constant) of 3.4) is practically insoluble in water (Refs 3 and 5). At a pH of 1 (as found in the stomach) most probenecid is present in the un-ionized form, therefore, hindering dissolution in the gastric fluids—a process that must take place before absorption.

3. *Physicochemical evidence that the dissolution rate of one or more such products is slow, e.g., less than 50 percent in 30 minutes when tested using either a general method specified in an official compendium or a paddle method at 50 revolutions per minute in 900 milliliters of distilled or deionized water at 37° C, or differs significantly from that of an appropriate reference material such as an identical drug product that is the subject of an approved full new drug application.* Dissolution testing conducted by FDA revealed that the rate of dissolution was very slow for one of three probenecid drug products tested when 900 milliliters pH 7.5 buffer were used as the medium. The rates of dissolution were even slower for all three products in a water medium. Results are presented in Table I (Ref. 9).

Table I—*Mean Percent Dissolved* [1]

Time (minutes)	Co. A	Co. B	Co. C
30	3.7	68.1	10.9
60	6.3	78.5	11.2

[1] Testing Methodology: Paddle, 50 RPM, 900 milliliters water, 37° C.

Mean Percent Dissolved [2]

Time (minutes)	Co. A	Co. B	Co. C
30	26.5	85.6	89.9
60	49.9	98.8	94.1

[2] Testing Methodology: Paddle, 50 RPM, 900 milliliters pH 7.5 buffer, 37° C.

4. *Pharmacokinetic evidence that: The drug product is subject to dose dependent kinetics in or near the therapeutic range, and the rate and extent of absorption are important to bioequivalence.* While the average plasma half-life for probenecid is 6 to 12 hours, the rate of metabolism is known to vary with the dose. Probenecid has been shown to exhibit dose-dependent kinetics. Dayton, et al., briefly describe experiments in which each of three subjects were given two different doses of sodium probenecid intravenously. Two subjects were administered a 2-gram dose initially and then 2 weeks later a 0.5-gram dose. The third subject received the same doses but in the reverse order. In each case, plasma levels declined more slowly following the larger dose than after the 0.5-gram dose. (Refs. 2, 5, 6, 7, and 8.)

The Bioequivalence Requirement

On the basis of this data, the Director tentatively concludes that the evidence meets one or more of the criteria in § 320.52 and proposes to establish the following bioequivalence requirements for single-active-ingredient oral dosage form drug products containing probenecid.

The proposed bioequivalence requirement would apply to all manufacturers of these drug products and would require each manufacturer, except the manufacturer of the reference material or a manufacturer who has previously conducted in vivo bioavailability/bioequivalence studies fulfilling the requirements of this section, to conduct an in vitro dissolution test comparing its drug product to a specified reference material, and to conduct an in vivo bioavailability study comparing the same lot of its drug product to a specified reference material.

Under this proposed requirement, test drug products would be considered to meet the in vitro portion of the bioequivalence requirement if the in vitro data show that the dissolution rate for the test drug product is not less than 80 percent in 30 minutes. The test is to be conducted in 900 milliliters of simulated intestinal juice minus enzymes at 37± 0.5°C using U.S.P. apparatus 2 with the paddle rotating at 50 revolutions per minute. The number of dosage units to be tested is to be determined by reference to the official U.S.P. acceptance table for dissolution testing.

It should be noted that FDA dissolution specifications for oral probenecid drug products differ from the compendial dissolution specifications in dissolution time, dissolution percentage, apparatus, medium, and revolution speed. These differences have been brought to the attention of the U.S.P. These differences are based on data submitted to FDA by manufacturers of probenecid drug products and from a FDA laboratory. To ensure complete dissolution, FDA is proposing that the dissolution rate be higher than that required by the U.S.P. (80 percent in 30 minutes as opposed to 60 percent in 45 minutes). To ensure a more

discriminating test, the agency is proposing that apparatus 2 be used at a speed of 50 revolutions per minute (as opposed to apparatus 1 at a speed of 150 revolutions per minute). All currently approved drug products should be able to meet the proposed dissolution specification.

Samples of the reference material run in comparison to a test drug product are to be tested in the same manner as the test drug product. If the samples from one lot of the reference material do not meet the applicable dissolution specifications for the product, test additional lots of reference material, up to a total of 3 lots until a lot of reference material which meets the applicable dissolution specification is tested. If none of the 3 lots of reference material tested meets the applicable dissolution specifications, notify the Director, Division of Biopharmaceutics, Bureau of Drugs, Food and Drug Administration, before conducting any in vivo studies. Because of the manner of selecting the reference material, it is not anticipated that manufacturers would normally have to test more than one lot of the reference material.

The in vivo data for all drug products subject to these requirements must show that the test drug product meets the following conditions:

1. The test drug product and the reference material do not differ more than 20 percent as determined by comparing the mean values for measured parameters, e.g., concentration of the active drug ingredient in the plasma levels (Cmax), rate of absorption (measured by time to attain peak plasma levels (Tmax) or the absorption constant (Ka)), and the area under the plasma-concentration time curves. (AUC).

2. In at least 75 percent of the subjects the test product is at least 75 percent as bioavailable as the reference material, using each subject as his or her own control, i.e., administering both the reference material and the test drug product to each subject using a cross-over procedure.

In addition, the analytical and statistical techniques used must be of sufficient sensitivity to detect those differences in rate and extent of absoption that are not attributable to subject variability.

Methodology specifications are set forth either in the text of the proposed bioequivalence requirements that appear later in this document, or in guidelines on file in the office of the Hearing Clerk, Food and Drug Administration.

The Director also proposes that a manufacturer of a drug product selected by FDA as the reference material shall conduct an in vitro test on one batch of the reference material. In addition, if the manufacturer has not conducted in vivo bioavailability/bioequivalence studies fulfilling the requirements of this section, the manufacturer would be required to conduct an in vivo bioavailability study comparing the reference material with an oral solution or oral suspension of an equivalent amount of active ingredient contained in the reference material.

A manufacturer of a probenecid drug product subject to this proposed section who has previously conducted in vivo bioavailability/bioequivalence studies, e.g., to meet requirements for approval of an ANDA for a drug product covered by a drug efficacy study implementation (DESI) notice, may request FDA to evaluate the studies to determine whether they are adequate and conclusive to ensure the bioequivalence of the drug product in light of current scientific knowledge and methodology. If found acceptable, the manufacturer would be required to conduct an in vitro test on one batch of the product.

To correlate in vivo data with in vitro dissolution data, where in vivo testing is required, the Director proposes that the same lot or batch of the test product and the same lot or batch of the reference material used in the in vitro tests be used in the in vivo test, unless a manufacturer has conducted adequate in vivo tests in humans to demonstrate bioavailability/bioequivalence before the effective date of these proposed requirements. If more than one lot or batch of the reference material had to be used in the in vitro testing because some lots or batches of the reference material did not meet the applicable dissolution specifications, the lot or batch which meets the applicable dissolution specifications must be used in the in vivo test.

The Director advises that, whenever possible, the reference material listed in the guidelines is a drug product subject to an approved full NDA which contains in vivo data demonstrating the bioavailability of the drug product and in vitro dissolution data showing that the drug product meets the proposed in vitro bioequivalence requirement. In exceptional cases, for example, in instances where no approved full NDA holder has conducted an acceptable bioavailability study, other factors may be considered as deemed appropriate by the agency. The selection of a drug product as the reference material does not imply superiority in any way but is intended only to provide for a common standard for the determination of bioequivalency.

General guidelines for in vivo testing are set forth in § 320.25 (21 CFR 320.25). Specific draft guidelines for in vivo testing and for in vitro dissolution testing of probenecid are on file in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and are available on request. The reference material to be used in the in vivo and in vitro tests of each drug product subject to this proposed regulation is named in the guidelines for in vivo bioavailability studies for oral probenecid drug products.

The proposed effective date of the final regulation is 30 days after its date of publication in the Federal Register. The Director proposes that the results of the required in vitro dissolution test be submitted to FDA on or before 60 days after the effective date of the final regulation and the results of the required in vivo test be submitted to FDA on or before 180 days after the effective date of the final regulation. The Director believes this will allow sufficient time for a manufacturer to conduct the required tests, evaluate the data, prepare the necessary reports, and submit them to FDA. The Director advises, however, that in some cases FDA may recommend that a manufacturer conduct a pilot study, e.g., when an analytical assay methodology has not been used previously in an in vivo bioavailability/bioequivalence study, or where optimal sampling times have not been determined. Any such recommendation that a pilot study be conducted will be contained in the "Guidelines for In Vivo Bioavailability Studies." The Director may grant an extension of up to 180 days upon request from the manufacturer to allow sufficient time to conduct the pilot study and submit the data to FDA. In addition, FDA encourages the submission of protocols for in vivo bioavailability studies. If a manufacturer submits a protocol for FDA to evaluate, the Director will grant an extension of time necessary for the initial review of the protocol.

The Director advises that any drug product subject to this proposal is regarded as a new drug as defined in section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)), requiring either an approved full or abbreviated NDA as a condition to lawfully marketing the product. Marketing of such a drug product must be in accordance with the requirements of § 320.58 (21 CFR 320.58).

After the effective date of a final regulation establishing a bioequivalence

requirement, each manufacturer would be required, under § 320.56 (21 CFR 320.56), to conduct the in vitro dissolution test on a sample of each batch of the oral probenecid drug products to ensure batch-to-batch uniformity. The Director further proposes to require that the dissolution test be incorporated into a manufacturer's stability testing program. A batch of drug product whose dissolution falls below the specifications required by this regulation after entering the marketplace is subject to regulatory action.

References

Copies of all references cited below are on public display in the office of the Hearing Clerk (HFA–305). Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

1. Skelly, J. P., et al., with collaborators, W. H. Barr, and V. Bhavnagri, "Probenecid Bioavailability Monograph," Jan. 15, 1976.

2. Brazeau, P., "Inhibitors of Tubular Transport of Organic Compounds," *in* "The Pharmacologic Basis of Therapeutics," 5th ed., Edited By Goodman, L. S. and A. Gilman, the MacMillan Co., New York, pp. 860–866, 1975.

3. "Merck Index," 8th ed., Merck & Co., Inc., Rahway, NJ, p. 866, 1968.

4. Wagner, J. G., "Fundamentals of Clinical Pharmacokinetics," Drug Intelligence Publication, Inc., Hamilton, IL, p. 31, 1975.

5. Dayton, P. G., et al., "The Phsiological Disposition of Probenecid, Including Renal Clearance, In Man, Studied by an Improved Method for its Estimation in Biological Material," *Journal of Pharmacology and Experimental Therapeutics*, 140:278–286, 1963.

6. Dayton, P. G. and J. M. Perel, "The Metabolism of Probenecid in Man," annals of New York Academy of Sciences, 179:339–402, 1971.

7. Mandel, H. G. and C. Davidson, "Nonnarcotic Analgesics and Antipyretics II: Nonsalicylates and Drugs Useful in Gout. Probenecid," *in* "Drill's Pharmacology in Medicine," 3d ed., Edited by J. R. DiPalma, McGraw-Hill, Ny, pp. 316–317, 1965.

8. Guarino, A. M. and L. S. Schanker, "Biliary Excretion of Probenecid and Its Glucuronide," *Journal of Pharmacology and Experimental Therapeutics*, 64:387–395, 1968.

9. FDA Internal Memo to H. J. Malinowski from A. C. Gresham, "Probenecid Dissolution Data," 1980.

The agency has carefully considered the potential environmental impact of this proposal and has concluded that the action will not have a significant effect on the human environment and that an evironmental impact statement therefore will not be prepared. The agency's finding of no significant impact and the evidence supporting this finding contained in an environmental assessment (Pursuant to 21 CFR 25.31, Proposed December 11, 1979; 44 FR 71742) may be seen in the office of the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701(a), 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055 (21 U.S.C. 321(p), 352, 355, 371(a))) and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.79), it is proposed that Part 320 be amended in Subpart D by adding new § 320.205 to read as follows:

§ 320.205 Oral probenecid drug products.

(a) *Applicability.* The requirements of this section apply to all single active ingredient oral dosage form drug products containing probenecid.

(b) *In vitro test requirements*—(1) *General.* Each manufacturer of a drug product that is subject to this section, except for the manufacturer of the reference material who is subject to paragraph (b)(3) of this section and manufacturers of products previously tested in vivo who are subject to paragraph (b)(4) of this section, shall conduct an in vitro dissolution test comparing samples from a lot of the drug product with samples from a lot of the drug product with samples from a lot of the reference material specified by the Food and Drug Administration. The test shall be conducted according to the specific requirements contained in paragraph (b)(2) of this section using the dissolution procedure set forth in the official U.S.P. If the samples from the lot of the reference material do not meet the applicable dissolution specifications for the product, test additional lots of reference material, up to a total of three lots, until a reference lot which meets the applicable dissolution specifications is tested. If none of the three lots of reference material tested meets the applicable dissolution specification, notify the Director, Division of Biopharmaceutics, Bureau of Drugs, Food and Drug Administration, before any in vivo testing.

(2) *Specific requirements for test drug products.* (i) The test is to be conducted using 900 milliliters of simulated intestinal juice minus enzymes, U.S.P. apparatus 2 and a paddle speed of 50 revolutions per minute.

(ii) The test drug product and reference material meet the in vitro portion of the bioequivalence requirement if each has a dissolution of not less than 80 percent in 30 minutes. The number of dosage units to be tested is determined by reference to the official U.S.P. acceptance table for dissolution testing.

(3) *Specific requirement for manufacturer of reference material.* Each manufacturer of a specified reference material shall conduct an in vitro dissolution test on one batch of the reference material according to the specific requirements set forth in paragraph (b)(2) of this section, using the U.S.P. dissolution procedure and the U.S.P. dissolution acceptance table in determining the number of samples to be tested.

(4) *Specific requirements for products tested in vivo to demonstrate bioavailability/bioequivalence.* If a manufacturer of a drug product subject to this section has previously conducted in vivo tests in humans to demonstrate bioavailability/bioequivalence of its drug product and the studies have been found acceptable by the Food and Drug Administration under paragraph (d)(5) of this section, the manufacturer shall conduct an in vitro dissolution test on one batch of its drug product according to the requirements set forth in paragraph (b)(2) of this section, using the U.S.P. dissolution procedure and the U.S.P. dissolution acceptance table in determining the number of samples to be tested.

(5) *Submission of test results.* Each manufacturer of a drug product subject to this section shall submit the results of the required in vitro dissolution test to the Food and Drug Administration on or before (60 days after the effective date of this section).

(c) *In vitro testing of each batch.* An in vitro dissolution test must be performed on each batch of drug product subject to this section. The test procedure, specifications to be met, and number of samples to be tested must meet the applicable requirements of paragraph (b)(1) and (2) of this section. It is not necessary, however, to compare samples of the reference material with the batch of drug product being tested.

(d) *In vivo portion of the bioequivalence requirement.* (1) Each manufacturer of a drug product subject to this section, except a manufacturer of the reference material who is subject to paragraph (d)(3) of this section and a manufacturer who has conducted in vivo bioavailability/bioequivalence studies in humans before the effective date of this section which have been found acceptable under paragraph (d)(5) of this section, shall conduct an in vivo bioavailability study in humans comparing its drug product to the reference material.

(2) The test drug product meets the in vivo portion of the bioequivalence requirement if the following conditions are met:

(i) the test drug product and the reference material do not differ by more than 20 percent as determined by comparing the mean values for measured parameters, e.g., concentration of the active drug ingredient in the plasma, peak plasma levels (Cmax), rate of absorption (measured by time to attain peak plasma levels (Tmax) or the absorption constant (Ka)), and area under the plasma concentration-time curves (AUC);

(ii) In at least 75 percent of the subjects, the test drug product is at least 75 percent as bioavailable as the reference material using each subject as his or her own control, i.e., administering both the reference material and the test drug product to each subject using a cross-over procedure.

(iii) Analytical and statistical techniques used are sensitive enough to detect differences in rate and extent of absorption that are not attributable to subject variability.

(3) Each manufacturer of a drug product subject to this section that is selected by the Food and Drug Administration as the reference material, who has not conducted in vivo bioavailability/bioequivalence studies fulfilling the requirement of this section before (the effective date of the final regulation) shall conduct an in vivo bioavailability study in humans comparing its product (i.e., the reference material) with an oral solution or oral suspension of an equivalent amount of the probenecid contained in the reference material and must meet the requirements of paragraph (d)(2) of this section.

(4) Each manufacturer of a drug product subject to this section shall submit the results of the required in vivo testing to the Food and Drug Administration on or before (180 days after the effective date of this section). The Food and Drug Administration may grant an extension of up to 180 days upon request when a manufacturer can document the need for an extension, for example, by submitting a protocol for review or demonstrating that pilot studies are required before starting the tests.

(5) Any manufacturer of a drug product subject to this section who has conducted one or more in vivo bioavailability/bioequivalence studies in humans before the effective date of this section may request an evaluation of these studies to determine whether the studies are adequate and conclusive to ensure the bioavailability/bioequivalence of the drug product in light of current scientific knowledge and methodology. Each request is required to contain the new drug application number, the established (generic) name of the drug product, the dosage form and strength of the drug product, and the date(s) of submission of the pertinent study information contained in the new drug application.

(6) Each manufacturer requesting this evaluation who holds an approved or pending full new drug application for the drug product shall submit the request for evaluation to the Division of Cardio-Renal Drug Products (HFD–110), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Each manufacturer requesting the evaluation who holds an approved or pending abbreviated new drug application for the drug product shall submit the request for evaluation to the Division of Generic Drug Monographs (HFD–530), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

(e) *Inclusion of bioequivalence data in full or abbreviated new drug application.* Each manufacturer of a drug product subject to this section currently marketed under a full or abbreviated new drug application shall submit the required in vitro and in vivo data in the form of a supplement to the application. Each manufacturer of a drug product subject to this section that is not marketed on the effective date of the final regulation shall include the required in vitro and in vivo data in the original full or abbreviated new drug application submitted to the Food and Drug Administration.

(f) *Failure to meet bioequivalence requirements.* Any manufacturer unable to meet either the in vitro or in vivo specifications required by this section will be required to reformulate the drug product.

(g) *Reference material and guidelines for testing.* (1) The reference material to use in the in vivo and in vitro tests is specified in the "Guidelines for In Vivo Bioavailability Studies for Probenecid." The same batch of the test drug product and of the reference material used in the in vitro test are to be used in the in vivo test, unless a manufacturer conducted adequate in vivo tests in humans to demonstrate bioavailability/bioequivalence before the effective date of this section. If more that one batch of the reference material had to be used in the in vitro test because some batches of the reference material do not meet the applicable dissolution specifications, the batch which meets the applicable dissolution specifications must be used in the in vivo test.

(2) Guidelines for the conduct of in vivo and in vitro tests of oral probenecid drug products are on file in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and are available on request to that office.

(h) *Modifications.* Alternative methods for conducting the in vitro or in vivo testing required in this section may be used if evidence is submitted that demonstrates that the method will assure the bioequivalence of the drug to an extent equal to, or greater than, the methods set forth in this section. The justification data should be submitted to, and approved before use by, the Director, Division of Biopharmaceutics (HFD–520), Food and Drug Administration. Any approved modification will be incorporated into the appropriate guidelines for the drug.

Interested persons, may, on or before September 16, 1980, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: July 10, 1980.

Robert A. Terselic,

Acting Director, Bureau of Drugs.

[FR Doc 80–21484 Filed 7–17–80; 8:45 am]

BILLING CODE 4110–03–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1542–7]

Approval and Promulgation of Implementation Plans; San Francisco Bay Area Air Basin, Nonattainment Area Plan

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: On April 1, 1980 (45 FR 21282) the Environmental Protection Agency (EPA) published a Notice of Proposed Rulemaking for the San Francisco Bay

Area Air Basin Nonattainment Area Plan (NAP). Revisions to the NAP have been submitted to EPA by the Governor's designee, consisting of volatile organic compound rules. The intended effect of these revisions is to supplement the previously submitted NAP in order to meet certain requirements of Part D of the Clean Air Act, as amended in 1977, "Plan Requirements for Nonattainment Areas." The April 1, 1980 notice should be used as a reference in reviewing this notice.

This notice provides a description of the proposed SIP revisions, summarizes the applicable Part D requirements, compares the revisions to these requirements, identifies issues in the proposed revisions, and suggests corrections. The EPA invites public comments on these revisions, the identified issues, suggested corrections, and whether the revisions or certain portions of the revisions should be approved, conditionally approved, or disapproved, especially with respect to the requirements of Part D of the Clean Air Act.

DATES: Comments may be submitted up to August 18, 1980.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Technical Branch, Regulatory Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Copies of the Proposed Revisions, the Nonattainment Area Plan, and EPA's associated Evaluation Report are contained in document file NAP-CA-01 and are available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the following locations:

Association of Bay Area Governments, Hotel Claremont, Berkeley, CA 94705.

California Air Resources Board, 1102 "Q" Street, P.O. Box 2815, Sacramento, CA 95812.

Public Information Reference Unit, Room 2404 (EPA Library), 401 "M" Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, Regulatory Section, Air Technical Branch, Air & Hazardous Materials Division, Environmental Protection Agency, Region IX, (415) 556-2938.

SUPPLEMENTARY INFORMATION:

Proposed Actions

This notice proposes to approve the submitted volatile organic compound (VOC) rules under Section 110 of the Clean Air Act since they provide additional control measures and therefore strengthen the State Implementation Plan (SIP). In addition, specific rules have been evaluated to determine whether they require a level of control which reflects reasonably available control technology (RACT). Since the rules contain only minor deficiencies with respect to the Part D RACT requirements, EPA proposes to conditionally approve this portion of the NAP. This proposed action supersedes any proposed action included under Criterion 14 (extension requirements for VOC RACT) of the April 1, 1980 notice.

It should be noted that the overall NAP is still proposed to be disapproved with respect to the Part D requirements. As discussed in the April 1, 1980 notice, the plan does not contain the necessary legal authority from the California State legislature and a specific schedule to implement a vehicle emission control inspection and maintenance program. Until this major deficiency is corrected, EPA cannot approve or conditionally approve the overall NAP. Thus, the current prohibition on construction of certain major new or modified sources in the Bay Area Air Quality Management District (BAAQMD) must remain in effect.

Background

New provisions of the Clean Air Act, as amended in August 1977, Pub. L. No. 95-95, require states to revise their SIP's for all areas that do not attain the National Ambient Air Quality Standards (NAAQS). The amendments required each state to submit to the Administrator a list of the NAAQS attainment status for all areas within the state. The Administrator promulgated these lists, with certain modifications, on March 3, 1978 and December 28, 1979 (43 FR 8962 and 44 FR 76787). State and local governments were required to develop, adopt, and submit to EPA revisions to their SIP, for nonattainment areas, by January 1, 1979 which meet the requirements of Part D of the Clean Air Act and which provide for attainment of the NAAQS as expeditiously as practicable.

The entire San Francisco Bay Area Air Basin is designated nonattainment for ozone and carbon monoxide. In addition, Santa Clara County is designated nonattainment for the secondary total suspended particulate standard.

On July 25, 1979 the Executive Officer of the California Air Resources Board (ARB), the Governor's official designee, submitted the San Francisco Bay Area Air Basin NAP as an SIP revision. On January 14, 1980 ARB submitted a new source review regulation as a supplement to the NAP in order to remove a major and a minor deficiency identified in the April 1, 1980 notice (Criteria 9 and 13, respectively). EPA's evaluation of the San Francisco Bay Area Air Basin NAP and supplement are contained in the April 1, 1980 notice and in a June 1980 notice, respectively.

On February 7, 1980, ARB submitted to EPA Regulation 8, "Organic Compounds," for inclusion in the SIP. This regulation supersedes rules previously discussed in the April 1, 1980 notice under Criterion 14.

Description of Proposed SIP Revision

The rules contained in Regulation 8 are listed below:

Rule 1—General Provisions.
Rule 2—Miscellaneous Operations.
Rule 3—Architectural Coatings.
Rule 4—General Solvent and Surface Coating Operations.
Rule 5—Storage of Organic Liquids.
Rule 6—Terminals and Bulk Plants.
Rule 7—Gasoline Dispensing Facilities and Gasoline Delivery Vehicles.
Rule 8—Wastewater (Oil-Water) Separators.
Rule 9—Vacuum-Producing Systems.
Rule 10—Process Vessel Depressurization.
Rule 11—Metal Container, Closure, and Coil Coating.
Rule 12—Paper, Fabric, and Film Coating.
Rule 13—Light and Medium-duty Motor Vehicle Assembly Plants.
Rule 14—Surface Coating of Large Appliances and Metal Furniture.
Rule 15—Cutback Asphalt.
Rule 16—Solvent Metal Cleaning Operations.
Rule 17—Dry Cleaners.
Rule 18—Valves and Flanges at Petroleum Refinery Complexes.
Rule 19—Surface Coating of Miscellaneous Metal Parts and Products.

The regulation would replace a number of regulations currently in the SIP for the BAAQMD. These regulations are listed below:

1. The BAAQMD Regulation 3, "Reactive Organic Gas Emissions," portions submitted February 21, 1972, and July 13, 1978.
2. BAAQMD Regulation 9, "Architectural Coatings," submitted on July 13, 1978.
3. Federal Regulation 40 CFR 52.246, "Control of Dry Cleaning Solvent Vapor Losses."
4. Federal Regulation 40 CFR 52.252, "Control of Degreasing Operations."
5. Federal Regulation 40 CFR 52.253, "Metal Surface Coating Thinner and Reducer," and
6. Federal Regulation 40 CFR 52.254, "Organic Solvent Usage."

Discussion

Regulation 8 has been evaluated (1) to determine if it is consistent with Section 110 of the Clean Air Act, EPA policy, and 40 CFR Part 51, and if it is therefore approvable for inclusion in the SIP; and (2) to determine if it fulfills the requirements of Sections 172(a)(2) and (b)(3) of the Clean Air Act (i.e., the requirement for Reasonably Available Control Technology (RACT)).

Section 110

It is proposed that Regulation 8 be approved for inclusion in the SIP, since it strengthens the SIP, and since it is consistent with Section 110 of the Clean Air Act, EPA policy, and 40 CFR Part 51. The following discussion clarifies EPA's position on (1) alternatives control plan (bubble) provisions of some of the rules, (2) exemptions for methylene chloride, and 1,1,1 trichloroethane, and (3) rescission of existing SIP regulations:

1. Alternative Compliance Plans:

Rule 4, "General Solvent and Surface Coating Operations," Rule 11, "Metal Containers, Closure, and Coil Coating," Rule 13, "Light and Medium-duty Motor Vehicle Assembly Plants," and Rule 19, "Surface Coating of Miscellaneous Metal Parts and Products," each allow for the use of alternative control plans. These rules require that alternative control plans provide for emission reductions which are equivalent to those achievable with the categorical emission limits, and these plans must be approved by the Air Pollution control Officer. EPA policy for alternative proposals requires that these alternative proposals be submitted by the State as SIP revisions, [as discussed in EPA's policy statement, "Recommendations for Alternative Emission Reduction Options Within State Implementation Plans," (44 FR 71780, December 11, 1979)]. Until these alternative proposals are approved as revisions to the SIP, EPA would enforce the categorical emission limits and the compliance schedules of the rules.

EPA's policy for alternative plans also requires that the nonattainment area plan be approved before EPA could approve an alternative plan for a specific source, unless the alternative plan for a specific source, unless the alternative plan allows "bubbling" only within a Control Techniques Guideline (CTG) category (e.g., bubbles between two can-coating lines). Rules 11, 13, and 19 contain "bubble" provisions specific to a CTG category. Rule 4, however, would allow "bubbling" for non-CTG hydrocarbon source categories, and therefore, any alternative plan submitted under Rule 4 would not be approved by EPA until the ozone portion of the nonattainment area plan for the BAAQMD was approved.

2. Exemptions for 1,1,1 Trichloroethane and Methylene Chloride:

Rules 2, 4, and 6 contain exemptions for methyl chloroform (1,1, trichloroenthane) and methylene chloride. On May 16, 1980, EPA published a clarification of Agency policy concerning the control of methyl chloroform and methlene chloride in ozone SIPs. (45 FR 32424) EPA explained that if cannot approve or enforce controls on either of these two compounds as part of a Federally enforceable ozone precursor. Consequently, EPA is not disapproving these exemptions.

This policy is in no way an expression of EPA's view on the desirability of controls on these compounds. States retain the authority to control these compounds under the authority reserved to them in Section 116 of the Clean air Act. In addition, State officials and forces should be advised that there is a strong possibility of future regulatory action by EPA to control emissions of these two compounds. (see, e.g., Proposed New source Performance Standards for Organic Solvent cleaners, 45 FR 39766, June 11, 1980).

3. Rescission of Existing SIP Regulations:

BAAQMD Regulation 8 strengthens the SIP relative to the BAAQMD Regulation 3 and Regulation 9, which are now part of the SIP. Therefore, it is proposed that Regulations 3 and 9 be rescinded upon approval of Regulation 8. In addition, the following actions are proposed for the four Federal Regulations which currently control hydrocarbon sources in the Bay Area:

a. 40 CFR 52.246, "Control of Dry Cleaning Solvent Vapor Losses," should be retained. The District's Rule 17 controls fugitive emissions from petroleum solvent dry cleaning facilities, whereas the Federal Regulation requires a 90% reduction of process emissions. Since the two rules control different types of emissions from the petroleum solvent dry cleaning industry, it is proposed that the Federal Regulation be retained.

b. 40 CFR 52.252, "Control of Degreasing Operations," should be retained. The Federal Regulation requires 85% control of highly-reactive degreasing solvents such as trichloroethylene. The District's Rule 16, "Solvent Metal Cleaning Operations," would apply to many more sources than the Federal Regulation, but would only require controls expected to achieve a 50% emission reduction. Since the District rule requires less control for sources using solvents such as trichloroethylene, it is proposed that the Federal Regulation be retained.

c. 40 CFR 52.253, "Metal Surface Coating Thinner and Reducer," should be retained applicable to sources subject to Rules 11, 13, 14, and 19 until such sources achieve compliance with the appropriate new rules. These four District rules cover all of the various metal surface coating industries, and should provide for more control of organic compounds than the Federal Regulation.

d. 40 CFR 52.254, "Organic Solvent Usage," should be rescinded, except for paragraph (d), which should be retained until December 31, 1982, for sources constructed prior to October 2, 1974. Rule 4 of Regulation 8 contains control requirements which are equivalent to those contained in 40 CFR 52.254. All of the requirements of Rule 4 are now in effect, with the exception of a 3,000 lb/day emission limit for complying solvents. That limit is in effect now for sources constructed after October 2, 1974. Sources constructed prior to October 2, 1974, are not required to comply with the 3,000 lb/day limit until December 31, 1982. 40 CFR 52.254 contains an equivalent emission limit, but requires all sources to be in compliance now. In order to maintain continuity of SIP emission limits, paragraph (d) of 40 CFR 52.254 should be retained until December 31, 1982, for sources constructed prior to October 2, 1974.

Section 172

The ozone portion of the Nonattainment Area Plan for the BAAQMD indicates that attainment of the 0.12 ppm ozone standard is not possible by December 31, 1982, despite the application of all reasonably available control measures. Therefore, the plan must contain adopted legally enforceable regulations which reflect the application of reasonably available control technology (RACT) for those stationary source categories for which EPA has published a Control Techniques Guideline (CTG) document by January, 1978 (i.e., Group I CTGs). In addition, the plan is required to contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents.

The CTGs provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT, based on EPA's current evaluation of the capabilities and problems general to an industry. The State may develop case-

by-case RACT requirements, independent of EPA's recommendation, for any source or group of sources. Therefore, the basis for EPA's decision to approve a regulation as satisfying the Act's requirement for RACT consists of (1) the applicable CTG document, (2) any material submitted by the State justifying that the regulation satisfies the requirements of the Act for RACT (based on the economic and technical circumstances of the particular sources being regulated), and (3) public comment on the submitted regulation and supporting material.

The April 1, 1980 Notice of Proposed Rulemaking indicated that there were 14 Group I CTG source category regulations needed, and that all 14 categories had been addressed by regulations submitted by the State. The VOC regulations reviewed for the April 1, 1980 proposal notice have now been superseded by Rules 5 through 16 of Regulation 8. Based on information contained in the CTGs, EPA believes that Rules 5 through 16 satisfy the requirement for RACT except as noted below.

1. Rule 8, "Wastewater (Oil-Water) Separators," exempts separators which process less than 200 gallons per day of wastewater, or separators which handle organic materials with a Reid Vapor Pressure less than 0.5 psi. These exemptions are not supported by information in the CTG.

2. Rule 15, "Cutback Asphalt," allows the use of medium cure cutback asphalt from November through March. Allowance for the use of medium cure cutback asphalt may be appropriate if ambient temperatures during those months do not typically exceed 50°F.

In response to the minor deficiencies enumerated above, EPA proposes to approve the VOC RACT portion of the ozone plan with the condition that the State submit one of the following by October 1, 1980: (1) amended Rules 8 and 15 which are consistent with the CTGs, (2) information justifying that these rules represent RACT, or (3) information which shows that the emission reductions achievable with these rules are within 5% of the reductions achievable with the controls recommended in the respective CTGs.

The submitted rules were also evaluated to determine whether they contained adequate compliance schedules as required by Section 172(b)(8) of the Act and 40 CFR 51.15. The submitted rules do contain acceptable compliance schedules except as noted below:

(1) Rule 6, "Terminals and Plants" does not contain a compliance schedule for certain bulk plants which are required to comply by 1983, and

(2) Rule 13, "Light and Medium-duty Motor Vehicle Assembly Plants," contains a compliance schedule with interim compliance dates that exceed one year (Sections 402.1 and 402.2). 40 CFR 51.15 and 51.1(q) require that compliance schedules extending beyond one year be accompanied by additional increments of progress. These increments can take the form of progress reports submitted at intervals not to exceed one year.

In response to the minor deficiencies enumerated above, EPA proposes to approve this portion of the plan with the condition that the State submit the following by October 1, 1980: (1) an amended Rule 6 which contains a compliance schedule for bulk plants required to comply by 1983, and (2) a revised Rule 13 which contains additional increments of progress.

As stated above, the plan must contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents. The plan contains a local resolution to adopt all other reasonably available control measures needed to attain the standards as expeditiously as practicable. The State must submit adopted regulations by July 1, 1980, for the following applicable source categories (Group II CTGs): petroleum refinery leaks, gasoline tank trucks, perchloroethylene dry cleaning, pharmaceutical manufacture, graphic arts, pneumatic rubber tire manufacture, and flat wood paneling.

The District's Rule 5, "Storage of Organic Liquids," and Rule 19, "Surface Coating of Miscellaneous Metal Parts and Products," contain control requirements for Group II CTG source categories. These rules provide for a level of control sufficient to fulfill the requirement for RACT for floating-roof tanks, and miscellaneous metal parts and products. Therefore, no additional control requirements are needed for these source categories. The District's Rule 18, "Valves and Flanges at Petroleum Refinery Complexes," contains control requirements for another Group II CTG source category. While EPA is proposing to approve this rule for inclusion in the SIP, the rule is not adequate to completely fulfill the requirement for RACT for refinery fugitive leaks, since it does not contain control requirements for relief valves, pumps and compressors. Additional rules or amendments to this rule will need to be submitted to fully meet the RACT requirement for this Group II CTG source category.

Public Comments

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP submitted by the State. The Regional Administrator hereby issues this notice setting forth the above described revisions, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office.

The EPA Region IX Office specifically invites public comment on whether to conditionally approve the items identified in this notice as deficiencies. EPA is further interested in receiving comments on the specified deadline for the State to submit the corrections, in the event of conditional approval.

Comments received on or before August 18, 1980 will be considered. Comments received will be available for public inspection at the EPA Region IX Office and at the locations listed in the ADDRESSES section of this notice.

The Administrator's decision to approve, conditionally approve, or disapprove the proposed revision will be based on the comments received and on a determination whether the revisions meet the requirements of Section 110(a)(2) and Part D of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

EPA believes the available period for comment is adequate because:

(1) The plan has been available for inspection and comment since August 16, 1979.

(2) The issues involved in the revisions submitted on February 7, 1980 are limited in scope and are sufficiently clear to allow comments to be developed in the available 30 day period; and

(3) EPA has a responsibility under the Act to take final action as soon as possible after July 1, 1979 on that portion of the SIP that addresses the requirements of Part D.

EPA has determined that this action is "specialized" and therefore, not subject to the procedural requirements of Executive Order 12044.

(Secs. 110, 129, 171 to 178 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410, 7429, 7501 to 7506, and 7601(a))

Dated: June 23, 1980.

Sheila M. Prindiville,

Acting Regional Administrator.

[FR Doc. 80-21817 Filed 7-17-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1542-8]

Indiana State Implementation Plan, Extension of Comment Period

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Notice of extension of comment period.

PURPOSE: The USEPA is giving notice that the comment period on the notice of proposed rulemaking on revisions to the Indiana State Implementation Plan (SIP) published March 27, 1980 (45 FR 20432) has been extended fromn June 27, 1980 to August 1, 1980.

DATE: Comments are now due on or before August 1, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Miller, Air Programs Branch, Regulatory Analysis Section, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6031.

SUPPLEMENTAL INFORMATION: This notice extends the period for submitting comments to the notice published March 27, 1980 (42 FR 20432) proposing rulemaking on revisions to Indiana's SIP. These revisions pertain to the particulate, sulfur dioxide, carbon monoxide, and ozone strategies for nonattainment areas in Indiana. Additionally, the proposal addresses certain general requirements of the Clean Air Act.

This is the second extension of the comment period. Public comments were orginally due on the proposed revisions on April 28, 1980.

On April 8, 1980, the Indiana Air Pollution Control Board requested a 60 day extension for filing their comments regarding USEPA's proposed action on the revisions. Acting on this request, on May 7, 1980, the USEPA extended the comment period to June 27, 1980 (45 FR 30089). On June 24 and June 25, 1980 two coal companies acting separately requested a further extension of the public comment period. On June 25, 1980, Indiana informed the USEPA that it had no objection to such an extension.

The USEPA has decided that the extension of the public comment period is appropriate and hereby extends the comment period to August 1, 1980.

Dated: July 11, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-21629 Filed 7-17-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1543-2]

Ambient Air Quality Monitoring, Data Reporting, and Surveillance Provisions for the State of Minnesota

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) is proposing to approve the portion of Minnesota's State Implementation Plan which has been revised to comply with USEPA regulations contained in 40 CFR Part 58. The plan provides for the implementation of a statewide network for ambient air quality monitoring and data reporting. USEPA has determined that the plan meets requirements for quality assurance of the monitoring stations, network design and probe siting criteria, and monitoring methods to be used.

DATE: Comments must be submitted by no later than August 18, 1980.

ADDRESS: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

Copies of the requests for the State Implementation Plan (SIP) revision and supporting documents are available at the address cited above and at: Public Information Reference Unit, Room 2922, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20406, or Minnesota Pollution Control Agency, 1935 West County Road B2, Roseville, Minnesota 55113.

FOR FURTHER INFORMATION CONTACT: Stephen Goranson, Chief, Air Monitoring Staff, U.S. Environmental Protection Agency, Region V, 536 South Clark Street, Chicago, Illinois 60605, (312) 886-6226.

SUPPLEMENTARY INFORMATION:

Requirements for Air Quality Surveillance Network

Section 319 of the Clean Air Act, as amended, requires the United States Environmental Protection Agency (USEPA) to establish monitoring criteria to be followed uniformly across the Nation. Pursuant to this requirement and the recommendations of the Standing Air Monitoring Work Group (SAMWG), USEPA, on May 10, 1979 (44 FR 27558), promulgated Rules and Regulations for Ambient Air Quality Monitoring, Data Reporting, and Surveillance Provisions. The regulations revoke Part 51 of Title 40 of the Code of Federal Regulations and establish a new Part 58 entitled Ambient Air Quality Surveillance.

40 CFR Part 58.20 requires that the State adopt and submit to the Administrator a revision to the plan, which will:

(a) Provide for the establishment of an air quality surveillance system that consists of a network of monitoring stations designated as State and Local Air Monitoring Stations (SLAMS) which measure ambient concentrations of those pollutants for which standards has been established in 40 CFR Part 50.

(b) Provide for meeting the requirements of Appendices A, C, D, and E to this part.

(c) Provide for the operation of at least one SLAMS per pollutant during any stage of an air pollution episode as defined in the contingency plan.

(d) Provide for the review of the air quality surveillance system on an annual basis to detemine if the system meets the monitoring objectives defined in Appendix D to this part. Such review must identify needed modifications to the network such as termination or relocation of unnecessary stations or establishment of new stations which are necessary.

(e) Provide for having a SLAMS network description available for public inspection and submission to the Administrator upon request. The nework description must be available at the time of plan revision submittal and must contain the following information for each SLAMS:

(1) The Storage and Retrieval of Aerometric Data (SAROAD) site identification form for existing stations.

(2) The proposed location for scheduled stations.

(3) The sampling and analysis method.

(4) The operating schedule.

(5) The monitoring objective and spatial scale of representativeness as defined in Appendix D to this part.

(6) A schedule for:

(i) Locating, placing into operation, and making available the SAROAD site identification form for each SLAMS which is not located and operating at the time of plan revision submittal;

(ii) Implementing quality assurance procedures of Appendix A to this part for each SLAMS for which such procedures are not implemented at the time of plan revision submittal; and

(iii) Resiting each SLAMS which does not meet the requirements of Appendix E to this part at the time of plan revision submittal.

Minnesota's Air Quality Monitoring Network

On March 5, 1980, the State of Minnesota submitted to USEPA a revision to its SIP which provides for the establishment of an air quality monitoring network. The submittal includes a description of the proposed network which will cover the criteria pollutants: total suspended particulate (TSP), sulfur dioxide (SO_2), nitrogen dioxide (NO_2), carbon monixide (CO), and ozone (O_3), and lead (Pb).

The Minnesota monitoring SIP commits the State to the implementation of statewide SLAMS and National Air Monitoring Stations (NAMS) monitoring system to meet the requirements of 40 CFR Part 58. The system will be derived from the existing Minnesota Air Monitoring Network with adjustments and additions made where necessary.

Besides establishing the SLAMS and the NAMS (a subset of SLAMS), the SIP revision provides for the establishment of Special Purpose Monitoring Stations (SPMS). These monitors may be placed and used to fill special monitoring study needs. If data are to be used for support of control strategies, determination of attainment/nonattainment, or air dispersion modeling validation, the monitors will be reference or equivalent, sited according to Appendix E to 40 CFR Part 58 and follow the quality assurance procedures of Appendix A to 40 CFR Part 58.

The SIP states that specific SLAM sites will be designated as Episode Monitoring sites (EMS). These stations will be visited daily during the work week to ascertain proper operation and to detect elevated values. In the event an episode is declared, the pollutant(s) of concern will be followed continuously until episode termination.

All SLAMS in the Minnesota monitoring system will be operated in accordance with the criteria given in Subpart B of 40 CFR Part 58. Each SLAMS monitor will meet the siting criteria given in 40 CFR Part 58, Appendix E. Methods used in the SLAMS will be reference or equivalent as defined in 40 CFR Part 58, Appendix C. The quality assurance procedures of Appendix A to 40 CFR Part 58 will be followed when operating SLAMS stations and processing air quality data. The air monitoring system will be reviewed, modified as needed, and reported to U.S. EPA by July 1 of each year to eliminate any unnecessary stations or to correct inadquacies indicated by the annual review. All changes to the network will be discussed with the USEPA to achieve prior approval.

Included as a part of the SIP revision is a description of the proposed NAMS network. This description covers the existing proposed monitoring locations, sampling and analysis methods, monitoring objectives, and implementation dates.

USEPA has reviewed the submittal and has determined that it meets the requirements of sections 110 and 319 of the Clean Air Act, as amended, and USEPA regulations in 40 CFR Part 58. USEPA is therefore proposing approval of the revised Minnesota Air Quality Monitoring Plan.

Interested persons are invited to comment on the revised Minnesota SIP and on USEPA's proposed actions. Comments should be submitted to the address listed in the front of this Notice. Public comments received on or before August 18, 1980, will be considered in USEPA's final rulemaking. All comments received will be available for inspection at USEPA Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois, 60604.

This Notice of Proposed Rulemaking is issued under the authority of section 110, of the Clean Air Act, as amended.

Dated: July 8, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-21639 Filed 7-17-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1543-1]

40 CFR Part 52

Ambient Air Quality Monitoring, Data Reporting, and Surveillance Provisions for the State of Ohio

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Agency (USEPA) is proposing to approve Ohio's State Implementation Plan which has been revised to comply with USEPA regulations contained in 40 CFR Part 58. The plan provides for the implementation of a statewide network for ambient air quality monitoring and data reporting. USEPA has determined that the plan meets requirements for quality assurance of the monitoring stations, network design and probe siting criteria, and monitoring methods to be used.

DATE: Comments must be submitted by no later than August 18, 1980.

ADDRESS: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

Copies of the requests for the State Implementation Plan (SIP) revision and supporting documents are available at the address cited above and at: Public Information Reference Unit, Room 2922, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, or Ohio Environmental Protection Agency, 361 East Broad Street, Columbus, Ohio 43216.

FOR FURTHER INFORMATION CONTACT: Stephen Goranson, Chief, Air Monitoring Staff, U.S. Environmental Protection Agency, Region V, 536 South Clark Street, Chicago, Illinois 60605, (312) 886-6226.

SUPPLEMENTARY INFORMATION:

Requirements for Air Quality Surveillance Network

Section 319 of the Clean Air Act as amended, requires the United States Environmental Protection Agency (USEPA) to establish monitoring criteria to be followed uniformly across the Nation. Pursuant to this requirement and the recommendations of the Standing Air Monitoring Work Group (SAMWG), USEPA, on May 10, 1979 (44 FR 27558), promulgated Rules and Regulations for Ambient Air Quality Monitoring, Data Reporting, and Surveillance Provisions. The regulations revoke Part 51 of Title 40 of the Code of Federal Regulations and establish a new Part 58 entitled Ambient Air Quality Surveillance.

40 CFR Part 58.20 requires that the State adopt and submit to the Administrator a revision to the plan which will:

(a) Provide for the establishment of an air quality surveillance system that consists of a network of monitoring stations designated as State and Local Air Monitoring Stations (SLAMS) which measure ambient concentrations of those pollutants for which standards has been established in 40 CFR Part 50.

(b) Provide for meeting the requirements of Appendices A, C, D, and E to this part.

(c) Provide for the operation of at least one SLAMS per pollutant during any stage of an air pollution episode as defined in the contingency plan.

(d) Provide for the review of the air quality surveillance system on an annual basis to determine if the system meets the monitoring objectives defined in Appendix D to this part. Such review must identify needed modifications to the network such as termination or relocation of unnecessary stations or establishment of new stations which are necessary.

(e) Provide for having a SLAMS network description available for public inspection and submission to the Administrator upon request. The network description must be available at the time of plan revision submittal and must contain the following information for each SLAMS:

(1) The Storage and Retrieval of Aerometric Data (SAROAD) site identification form for existing stations.

(2) The proposed location for scheduled stations.

(3) The sampling and analysis method.

(4) The operating schedule.

(5) The monitoring objective and spatial scale of representativeness as defined in Appendix D to this part.

(6) A schedule for:

(i) Locating, placing into operation, and making available the SAROAD site identification form for each SLAMS which is not located and operating at the time of plan revision submittal;

(ii) Implementing quality assurance procedures of Appendix A to this part for each SLAMS for which such procedures are not implemented at the time of plan revision submittal; and

(iii) Resiting each SLAMS which does not meet the requirements of Appendix E to this part at the time of plan revision submittal.

Ohio's Air Quality Surveillance Network

On February 8, 1980, the State of Ohio submitted to USEPA a revision to its SIP which provides for the establishment of an air quality surveillance network. The submittal includes a description of the proposed network which will cover the criteria pollutants: total suspended particulate (TSP), sulfur dioxide (SO_2), nitrogen dioxide (NO_2), carbon monoxide (CO), and ozone (O_3).

The Ohio monitoring SIP commits the State to the implementation of statewide SLAMS and National Air Monitoring Stations (NAMS) monitoring system to meet the requirements of 40 CFR Part 58. The system will be derived from the existing Ohio Air Surveillance Network with adjustments and additions made where necessary.

The SIP states that specific SLAM sites will be designated as Episode Monitoring sites (EMS).

All SLAMS in the Ohio monitoring system will be operated in accordance with the criteria given in Subpart B of 40 CFR Part 58. Each SLAMS monitor will meet the siting criteria given in 40 CFR Part 58, Appendix E. Methods used in the SLAMS will be reference or equivalent as defined in 40 CFR Part 58, Appendix C. The quality assurance procedures of Appendix A to 40 CFR Part 58 will be followed when operating SLAMS stations and processing air quality data. The air monitoring system will be reviewed, modified as needed, and reported to U.S. EPA by July 1 of each year to eliminate any unnecessary stations or to correct inadequacies indicated by the annual review. All changes to the network will be discussed with the USEPA to achieve prior approval.

Included as a part of the SIP revision is a description of the proposed NAMS network. This description covers the existing proposed monitoring locations, sampling and analysis methods, monitoring objectives, and implementation dates.

USEPA has reviewed the submittal and has determined that it meets the requirements of sections 110 and 319 of the Clean Air Act, as amended, and USEPA regulations in 40 CFR Part 58. USEPA is therefore proposing approval of the revised Ohio Air Quality Surveillance Plan.

Interested persons are invited to comment on the revised Ohio SIP and on USEPA's proposed actions. Comments should be submitted to the address listed in the front of this Notice. Public comments received on or before August 18, 1980 will be considered in USEPA's final rulemaking. All comments received will be available for inspection at USEPA Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois, 60604.

This Notice of Proposed Rulemaking is issued under the authority of section 110, of the Clean Air Act, as amended.

Dated: July 8, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-21638 Filed 7-17-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 163

[FRL 1541-2; OPP-250027]

Guidelines for Registering Pesticides in the United States; Notification of the Secretary of Agriculture of Final and Proposed Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of Final and Proposed Regulations.

SUMMARY: Notice is given under Section 25(a)(2)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, that the Administrator, EPA, has forwarded to the Secretary of the U.S. Department of Agriculture a copy of EPA's proposed regulations to implement Section 3(c)(2) of FIFRA, which requires the Administrator to publish guidelines specifying the kinds of information which will be required to support the registration of a pesticide.

FOR FURTHER INFORMATION CONTACT: William Preston, Hazard Evaluation Division (TS-769), Office of Pesticide Programs, EPA, Washington, D.C. 20460 (703) 557-1405.

SUPPLEMENTARY INFORMATION: Subpart L, entitled Hazard Evaluation: Nontarget Insects, and Subpart D, entitled Chemistry Requirements: Product Chemistry are the portions of the guidelines involved. All of Subpart L is proposed rulemaking. The proposed paragraphs and sections of Subpart D—Chemistry Requirements: Product Chemistry are as follows: 163.61-1, 163.61-2(f), 163.61-6(e), 163.61-6(e), 163.61-7, 163.61-8(5)(b)(1)(iii), (b)(2)(iv), (c)(1)(iii), (c)(2)(iv), (d)(1)(ii), and (d)(2)(iv), part of 163.61-9(a), and Appendix paragraphs 2. and 3. (1-9). The rest of the material in Subpart D is final rulemaking. When published, Subpart D will appear as two separate documents: the final rule, with its own preamble; and the proposed rule, with its own preamble. Both proposed and final rules will be published in the same issue of the Federal Register.

For a proposed regulation, Section (a)(2)(A) of FIFRA requires that the Administrator regarding any such regulation within 30 days after receiving it, the Administrator shall provide the Secretary of Agriculture a copy of any proposed regulation at least 60 days prior to signing it for publication in the Federal Register. If the Secretary comments in writing to the Administrator shall publish in the Federal Register (with the proposed regulation) the comments of the Secretary, and the response thereto of the Administrator. If the Secretary does not comment within 30 days of receiving the final regulation, the Administrator may sign such regulation for publication in the Federal Register any time after such 30-day period.

For a final regulation, Section 25(a)(2)(B) of FIFRA requires that the Administrator shall provide the Secretary of Agriculture a copy of the final regulation at least 30 days prior to signing it for publication in the Federal Register. If the Secretary comments in writing to the Administrator regarding the final regulation within 15 days after receiving it, the Administrator shall publish in the Federal Register the final regulation (and the comments of the Secretary, if requested by him, with the response of the Administrator to these comments). If the Secretary does not comment in writing within 15 days after receiving it, the Administrator may sign the regulation for publication in the

Federal Register at any time after such 15-day period.

Pursuant to FIFRA Section 25(a)(3), a copy of these regulations have been forwarded to the Committee on Agricultue and Forestry of the Senate and the Committee on Agriculture of the House of Representatives. These regulations have also been submitted to the FIFRA Scientific Advisory Panel, as required by Section 25(d).

(Section 25, Federal Insecticide, Fungicide, and Rodenticide Act, as amended (Pub. L. 92-516; 89 Stat. 973; Pub. L. 94-140, 89 Stat. 751; (7 U.S.C. 136 *et seq.*))).

Dated: July 10, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-21716 Filed 7-17-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 180

[OPP-300026, FRL 1542-5]

Phensulfonic Acid-Formaldehyde-Urea Condensate; Proposed Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that the inert (or occasionally active ingredient) phenosulfonic acid-formaldehyde-urea condensate in pesticide formulations be exempted from tolerance requirements. The proposal was submitted by BASF Wyandotte Corporation. This amendment would permit the registration of phenosulfonic acid-formaldehyde-urea condensate and its sodium salt in pesticide formulations.

DATE: Comments must be received by August 18, 1980.

ADDRESS: Address comments to: Robert J. Taylor, Registration Division (TS-767), Office of Pesticide Programs, Room: E-359, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, (202-755-2196).

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. Taylor at the above address (202-755-2916).

SUPPLEMENTARY INFORMATION: At the request of BASF Wyandotte Corp., the Administrator is proposing to amend 40 CFR 180.1001 by exempting phenosulfonic acid-formaldehyde-urea condensate and its sodium salts, which is an inert (or occasionally active ingredient) in pesticide formulations from tolerance requirements.

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to the following types of ingredients (except when they have pesticidal efficacy of their own); solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers, and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The preamble to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and the toxicological and other scientific bases used in arriving at a conclusion to safety in support of the exemption.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data evaluated included a 90-day rat oral feeding study with a non-observed-effect level (NOEL) of 1000 parts per million (ppm) and a 90-day subacute oral dog feeding study with an NOEL of greater than 3000 parts per million.

There is no data lacking that is considered desirable for this use. Therefore, there is no action being taken to obtain the data. There are no regulations pending against the registration of this inert. No previous exemptions have been established for this inert. A method of analysis and residue data were not submitted. A method for determination of the inert in formulations (separation by a cation exchanger and titration) is available. The inert ingredient is useful for the purpose for which the exemption is sought (dispersant in wettable powder and flowable pesticide formulations). There are no other considerations in establishing this exemption. It is concluded, therefore, that the proposed amendment to 40 CFR 180.1001 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains the ingredient listed herein, may request by August 18, 1980 that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the document control number, "OPP-300026". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of Mr. Robert J. Taylor, Registration Division, Office of Pesticide Programs, Room E-349, EPA, 401 M Street, SW, Washington, DC 20460 from 8:30 a.m. to 4:00 p.m., Monday through Friday.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". The proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 408(e), 68 Stat. 14, (21 U.S.C. 346a(e)]).

Dated: July 14, 1980.

Douglas D. Campt,

Director, Registration Division Office of Pesticide Programs.

It is proposed that Part 180, of 40 CFR Subpart D, be amended by alphabetically inserting "Phenosulfonic acid-formalhyde-urea condensate and its sodium salt * * *" in the table in § 180.1001 paragraph (d) to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredient	Limits	Uses
Phenosulfonic acid-formaldehyde-urea condensate.	Applied to growing plants only.	Dispersant surfactant.

[FR Doc. 80-21618 Filed 7-17-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Parts 264 and 265

[FRL 1543-8]

Financial Requirements for Owners and Operators of Hazardous Waste Management Facilities; Extension of Comment Period

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Extension of comment period on revision of proposed rules.

SUMMARY: This notice extends for thirty one (31) days the deadline for commenting on EPA's May 19, 1980 revision of proposed rule financial requirements for owners and operators of hazardous waste management facilities under Section 3004 of the Resource Conservation and Recovery Act, as amended.

DATES: Comments on the financial requirements are now due no later than August 18, 1980.

FOR FURTHER INFORMATION CONTACT: George A. Garland, Chief, Economic and Policy Analysis Branch, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202) 755-9190.

For information about the liability requirements contact: Hugh Holman, Economic Analysis Division, Office of Planning and Evaluation (PM-220), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202) 287-0703.

SUPPLEMENTARY INFORMATION: On May 19, 1980 EPA revised its proposed rule for financial requirements for owners and operators of hazardous waste management facilities. Since then, EPA has met with members of the public, the regulated community, the financial community, the insurance community, and other government agencies with financial requirements to discuss the complex issues of financial regulations. The Agency is extending the comment period for financial requirements for thirty-one days so it can continue these discussions.

Dated: July 14, 1980.

James N. Smith,

Assistant Administrator for Water and Waste Management.

[FR Doc. 80-21791 Filed 7-17-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

46 CFR Part 503

[General Order 22; Docket No. 80-48]

Public Information; Appeals of Denials of Requests for Information

AGENCY: Federal Maritime Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission's rules regarding appeals of denials of requests for certain agency records are proposed to be amended to provide for determination of such appeals by the full Commission instead of the Chairman. The change recognizes that each Commissioner has an equal interest in such determinations.

DATE: Comments (original and fifteen copies) due on or before August 18, 1980.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street NW., Room 11101, Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: The Commission's rules regarding requests for documents under the Freedom of Information and Government in the Sunshine Acts currently provide that all appeals of the Secretary's denials of such requests will be determined by the Chairman of the Commission. The Commission now is considering amendments to these rules which would designate the full Commission as the arbiter of such appeals in the case of all Government in the Sunshine Act requests and certain Freedom of Information Act requests. The purpose of these proposed amendments is to reserve for the full Commission the right to finally rule on the question of disclosure of materials which are the product of a joint deliberation, effort or action of a quorum of Commissioners.

Government in the Sunshine Act materials in this category, described in § 503.85 of 46 CFR, include transcripts, electronic recordings, or detailed minutes of deliberations of the agency in closed session at which the Commissioners jointly conduct the official business of the agency. Whether to release these materials to the public is a matter on which each of the Commissioners should have an equal voice. Similarly, each Commissioner has an equal interest in whether to release other "sensitive" agency documents which are the product of joint effort or action of the Commission. This latter category of materials would be extremely small in number inasmuch as most products of joint action of the Commissioners are not sensitive and automatically are made public through issuance of decisions, orders, etc.

Therefore, pursuant to 5 U.S.C. 552 and 553 and section 43 of the Shipping Act, 1916 (46 U.S.C. 841a) the Commission proposes to amend 46 CFR Part 503 in the following respects.

§ 503.34 [Amended]

1. In § 503.34(a)(3) the phrase "to the Chairman" would be deleted.

2. In § 503.34(b)(1) "Secretary" would be substituted for "Chairman" in the second sentence.

3. Section 503.34(b)(2) would be revised to read as follows:

§ 503.34 Procedures on request for documents.

* * * * *

(b) * * *

(2) Upon appeal from a denial or partial denial of a request for documents by the Secretary, the Chairman of the Federal Maritime Commission or the Chairman's specific delegate in his absence, shall make a determination with respect to that appeal within twenty (20) days (excepting Saturdays, Sundays and legal public holidays) after receipt of such appeal, except as provided in paragraph (c) of this section: *Provided however,* That in the case of requests for records governed by § 503.86(b) of this part and for other documents which have been prepared through joint action or effort of a quorum of Commissioners, the appeal will be determined by majority vote of the Commission. If, on appeal, the denial is upheld either in whole or in part, the agency shall so notify the party submitting the appeal and shall notify such person of the provisions of paragraph 4 of subsection (a) of the FOIA (Pub. L. 93-502, 88 Stat. 1561-1562, November 21, 1974) regarding judicial review of such determination upholding the denial. Notification shall also include the names and titles or positions of each person responsible for the denial of the request.

§ 503.86 [Amended]

4. The following new sentence would be added to § 503.86(b).

"All appeals of denials of requests for records described in this section shall be determined by majority vote of the Commission."

By the Commission,

Francis C. Hurney,

Secretary.

[FR Doc. 80-21477 Filed 7-17-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-158; RM-3374]

FM Broadcast Station in Eagle, Colorado; Order extending time for filing reply comments

AGENCY: Federal Communications Commission.

ACTION: Order, extension of reply comment period.

SUMMARY: Action taken herein extends the time for filing reply comments in the proceeding involving the proposed assignment of an FM channel to Eagle, Colorado. Gloria D. and George M. Jones request the additional time to prepare a reply to a counterproposal that was submitted in comments.

DATE: Reply comments must be filed on or before July 14, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Eagle, Colorado).

Adopted: July 2, 1980.

Released: July 11, 1980.

By the Chief, Policy and Rules Division:

1. On April 11, 1980, the Commission adopted a *Notice of Proposed Rule Making*, proposing the assignment of Channel 268 to Eagle, Colorado (45 Fed. Reg. 28771). Reply comments are presently due on July 7, 1980.

2. Counsel for Gloria D. and George M Jones ("petitioners") on June 23, 1980, filed a request seeking additional time in the proceeding to and including July 14, 1980, for filing reply comments. Counsel states that in light of the filing of the "comments and counterproposal" by Vail Mountain Broadcasters (VMB), additional time is needed to submit their reply.

3. Since the Commission believes it would be in the public interest to have all material available to it in arriving at a decision in this proceeding, we are granting the additional time requested.

4. Accordingly, it is ordered, that the above request for an extension of time filed by Gloria D. and George M. Jones IS GRANTED and the date for filing reply comments is extended to and including July 14, 1980.

5. This action is taken pursuant to section 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's rules.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-21536 Filed 7-17-80; 8:45pm]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 651

Atlantic Groundfish; Permit Sanctions

AGENCY: National Oceanic and Atmospheric Administration/ Department of Commerce.

ACTION: Notice of Deferral of Final Rulemaking; Notice of Intent to Sanction Permits under Present Authority.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) gives notice that it will defer until after October 1, 1980, final rulemaking on the proposal published December 3, 1979 (44 FR 69312), to establish a point system which could lead to an automatic 30 or 60 day suspension of a fishing vessel's federal permit for violations of regulations implementing the Fishery Management Plan for Atlantic Groundfish (50 CFR Part 651). During the deferral period, NOAA will prepare a regulatory analysis of the potential economic impact of the proposal, further assess the need for the proposal, and otherwise consider public comments received. In the interim, sanctions will be imposed on permits as appropriate under the existing authority of 50 CFR Part 621.

DATES: Further comments on the proposal or suggested alternatives to accomplish its purposes will be considered if received on or before October 1, 1980

ADDRESS: Send comments to: NOAA Office of General Counsel (GCEL), Room 280-L, Page 1 Building, 2001 Wisconsin Avenue, NW, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Stephen J. Powell (address above). Telephone: (202) 254-8350.

SUPPLEMENTARY INFORMATION: As stated in the proposed rules, published at 44 FR 69312, the point system is designed to give advance notice to fishermen of NOAA's specific intentions regarding what permit sanctions are appropriate in the event of violations. Exercise of the permit sanction authority would be more predictable and compliance with the fishery management plan further encouraged by a more efficient enforcement process.

A number of comments received during the 60 day review period (an extension of time was noticed on January 4, 1980, 45 FR 1112) suggested that a regulatory analysis be prepared under Executive Order 12044. NOAA today gives notice that it will exercise its discretionary authority to prepare such an analysis, with particular emphasis on the economic impact of that part of the proposal which anticipated that points accrued by a vessel involved in violations would follow the vessel when sold—the permit issued to the new owner would be subject to any suspension or points in effect at the time of sale. NOAA will also take this opportunity to consider at greater length comments which suggested that the point system is not needed to assure compliance, given the existing authority to impose permit sanctions without such a system, to impose civil penalties, and to forfeit illegal catch as well as gear and vessels used in violations. NOAA will also further study specific suggestions for modifications to the proposal.

NOAA expects to complete this review on October 1, 1980, and to decide by January 1, 1981, whether to publish final rules or to take other action. Final rules will be accompanied by a more detailed analysis of comments, including those received during the deferral period. Further comment on the proposal, or suggestions for alternatives to accomplish its purposes, are invited.

The public is advised that NOAA intends to continue in the meantime to impose sanctions on permits in accordance with present procedures, set out at 50 CFR Part 621 (Subpart D). Those provisions authorize revocation, suspension, or modification of a permit for violation of the Act (including regulations implementing a fishery management plan, such as 50 CFR Part 651), or for failure to make full payment of a civil penalty or criminal fine assessed under the Act.

Signed at Washington, D.C., this 14th day of July, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-21711 Filed 7-17-80; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 45, No. 140
Friday, July 18, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Relocation of the Golden Nematode Laboratory, Bath, N.Y.

AGENCY: Animal and Plant Health Inspection Service, USDA.

SUMMARY: This gives notice that the Animal and Plant Health Inspection Service is not preparing an environmental impact statement concerning the relocation of the existing Golden Nematode Laboratory from the present site located on the grounds of the U.S. Veterans Hospital, Bath, New York, to the proposed site located at 350 West Morris Street, Bath, New York. The environmental assessment of this action indicates that the existing facility has not caused significant adverse local, regional, or national impacts on the environment in the past. There are no adverse environmental impacts anticipated in the future for this facility.

ADDRESSES: Requests for copies of the environmental assessment should be addressed to Architectural Engineering Branch, Administrative Services Division, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782.

FOR FURTHER INFORMATION: Contact John H. Green, Architectural Engineering Branch (301) 436-8237.

SUPPLEMENTARY INFORMATION: The Animal and Plant Health Inspection Service, through the Plant Protection and Quarantine Programs, is responsible for controlling pests which damage agricultural crops, forest trees, and ornamental plants. The golden nematode, *Globodera rostochiensis,* is a pest which is destructive of potato plants in certain regions of New York State. It attacks the plant's roots, stunting growth and eventually killing the plant, resulting in economic losses to the farmers. The Golden Nematode Laboratory at Bath, New York, is responsible for detecting the presence of these pests and when found, eradicating them by soil fumigation. This activity controls the golden nematode in regions where it is endemic and prevents the spread of this destructive pest to other regions. The Animal and Plant Health Inspection Service's Golden Nematode Laboratory also functions as a field station for several other pest control programs operated by the Plant Protection and Quarantine Programs. These other pests are endemic to the region and include forest tree and other agricultural crop pests.

The present Golden Nematode Laboratory occupies a wooden frame building on the grounds of the U.S. Veterans Hospital, Bath, New York. The U.S. Veterans Hospital officials plan to raze this building to make room for new hospital dormitory facilities. The USDA facility must vacate its present site by autumn of 1980. A proposed new location is an abandoned supermarket located at 350 West Morris Street. This location is several blocks from the commercial center of Bath, New York. No administrative action will be taken until August 4, 1980.

This notice has been reviewed under the U.S. Department of Agriculture criteria established to implement the EO 12044, "Improving Government Regulations." A determination has been made that this notice should be classified "not significant" under those criteria. The environmental assessment referred to in the notice meets the requirements of EO 12044 and Secretary's Memorandum 1955 for an impact analysis statement. The environmental assessment is available from the Architectural and Engineering Branch, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, Maryland 20782.

Done at Washington, DC, this 15th day of July 1980.

James O. Lee, Jr.,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 80-21643 Filed 7-17-80; 8:45 am]

BILLING CODE 3410-34-M

Food and Nutrition Service

School Breakfast Program; National Average Payment for the Period July 1-December 31, 1980

Correction

In FR Doc. 80-20584, at page 46831, in the issue of Friday, July 11, 1980, at page 46832, in the first column, the first paragraph, the fourteenth line down correct "37.75 cents" to read "37.25 cents".

BILLING CODE 1505-01-M

Forest Service

Daniel Boone National Forest; Land and Resource Management Plan; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an environmental impact statement on the Land Resource Management Plan for the Daniel Boone National Forest (Rowan, Bath, Menifee, Morgan, Powell, Wolfe, Estill, Lee, Rockcastle, Jackson, Owsley, Perry, Pulaski, Laurel, Clay, Leslie, Wayne, McCreary, and White Counties, Kentucky).

The Land and Resource Management Plan is being prepared in accordance with requirements of the Secretary's regulations promulgated pursuant to the National Forest Management Act of 1976. The resulting plan will provide for the multiple use and sustained yield of goods and services from the Daniel Boone National Forest.

The planning process will integrate all resource planning—timber, range, fish and wildlife, water, wilderness, and recreation—together with resource protection and resource use activities. The process will be issue-oriented, i.e., public issues, management concerns, and development opportunities will be analyzed continually throughout the process.

A reasonable range of alternatives will be formulated by an interdisciplinary team to provide different ways to address and respond to the major public issues, management concerns, and resource opportunities identified during this planning process.

Alternatives will reflect a range of resource outputs and expenditure levels.

In formulating these alternatives, the following criteria will be met.

(1) Each alternative will be capable of being achieved;

(2) A no-action alternative will be formulated, that is the most likely condition expected to exist in the future if current management direction would continue unchanged;

(3) Each alternative will provide for orderly elimination of backlog of needed treatment for the restoration of renewable resources as necessary to achieve the multiple-use objectives of that alternative;

(4) Each identified major public issue and management concern will be addressed in one or more alternative; and

(5) Each alternative will represent to the extent practicable the most cost efficient combination of management practices examined that can meet the objectives established in the alternative.

Each alternative will state at least:

(1) The condition and uses that will result from long-term application;

(2) The goods and services to be produced, and the timing and flow of these outputs;

(3) Resource management standards and guidelines; and

(4) The purposes of the management direction proposed.

As an early step in the planning process, Federal, State, and local agencies, organizations, and individuals who may be interested in, or be affected by the decision will be invited to participate in a scoping process which includes: (a) identification of those issues to be addressed; (b) identification of those issues to be analyzed in depth; and (c) elimination from detailed study those issues which are not significant, or which have been covered by prior environmental review. To accomplish this scoping effort, a meeting will be held in the auditorium of the Agricultural Sciences Building, University of Kentucky, Lexington, Kentucky, August 11, 1980 at 7:30 p.m.

Written comments should be sent to: Mr. Richard H. Wengert, Daniel Boone National Forest 100 Vaught Road, Winchester, Kentucky 40391. The commercial telephone number is 606–744–5656.

The draft environmental impact statement should be available by August 1982 for a 90 day comment period. The final environmental impact statement and plan is scheduled for completion in June, 1983.

Lawrence M. Whitfield, Regional Forester, is the responsible official for approval of the environmental impact statement and plan.

For further information about the planning process or the environmental impact statement, contact: Harry Bullock, ID Team Leader, Daniel Boone National Forest (606–744–5656).

Dated: July 10, 1980.

Lawrence M. Whitfield,

Regional Forester.

[FR Doc. 80-21626 Filed 7-17-80; 8:45 am]

BILLING CODE 3410-11-M

Dixie National Forest Land Management Plan; Intent To Prepare an Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969, the Department of Agriculture, Forest Service, will prepare an Environmental Impact Statement for the Dixie National Forest Land Management Plan (Washington, Iron, Kane, Garfield, Piute and Wayne Counties, Utah).

The Plan will be developed in accordance with the National Forest Management Act of 1976 and will discuss the following:

1. The major public issues and management concerns which are pertinent to the Forest.

2. An analysis of the management situation, including a brief description of existing managment situations, demand and supply conditions for resource commodities and services, production potentials, and use and development opportunities.

3. Long-range policies, goals, objectives, and the management strategies designed to achieve the goals and objectives.

4. Proposed locations, timing, standards, and guidelines for proposed and probable management practices.

5. Monitoring and evaluation requirements.

A reasonable range of alternatives, including a no-action alternative, will be formulated by the Interdisciplinary Team. All alternatives will reflect a range of resource outputs and expenditure levels. Alternatives will address major public issues and management concerns. Each alternative will represent to the extent practicable the most cost efficient combination of management practices.

As part of the scoping process, a preliminary list of issues will be presented to the public for their comments in July 1980. Input will also be requested from interested Federal, State, County, and local government officials., The input will be summarized, evaluated, and discussed in the Draft Environmental Impact Statement. Public participation activities are planned at key points throughout the planning process. Specific dates, times, and places for future public participation will be announced in the news media. Persons who want to receive written information should contact the person named in the last paragraph and request that they be included on the mailing list.

The filing of the Draft Environmental Impact Statement with the Environmental Protection Agency is expected in December 1981. The proposed release of the Final Environmental Impact Statement and plan is June 1982.

Ed Fournier, Forest Supervisor, Dixie National Forest, is responsible for preparation of the plan. Jeff M. Sirmon, Regional Forester, Intermountain Region, is the responsible official who will approve the plan.

Comments or questions regarding this *Notice of Intent*, the planning process, and public participation activities should be addressed to Al Schuldt, Forest Planner, Dixie National Forest, P.O. Box 580, 82 North 100 East, Cedar City, Utah 84720. Telephone number: (801) 586–2421.

Dated: July 10, 1980.

Jeff M. Sirmon,

Regional Forester.

[FR Doc. 80-21622 Filed 7-17-80; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Tivoli River Park Water-Based Recreation R. C. & D. Measure, Georgia.

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Dwight M. Treadway, State Conservationist, Soil Conservation Service, Federal Building, 355 East Hancock Avenue, Athens, Georgia 30613, telephone 404–546–2273.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Tivoli River Park Water-Based Recreation RC&D Measure, Bryan County, Georgia.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these

findings, Mr. Dwight M. Treadway, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns plan for the installation of basic facilities for a water-based recreational development. The Planned works of improvement include two fishing piers with adjacent parking and sanitary facilities.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Dwight M. Treadway, State Conservationist, Soil Conservation Service, Federal Building, 355 East Hancock Avenue, Athens, Georgia 30613, telephone 404-546-2273. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until August 18, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Public Law 87-703, 16 U.S.C. 590a-f, q)

James W. Mitchell,

Associate Deputy Chief for Natural Resource Projects.

[FR Doc. 80-21621 Filed 7-17-80; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended July 11, 1980 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR Part 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

Subpart Q Applications

Date filed	Docket No.	Description
July 7, 1980	38441	Air California, c/o John W. Simpson, Koteen & Burt, 1150 Connecticut Avenue, N.W., Washington, D.C. 20036. Application of Air California pursuant to Section 401 of the Act and Subpart Q of the Board's Regulations requests a certificate of public convenience and necessity authorizing it to engage in scheduled air transportation of persons, property and mail between the terminal point Eugene, Oregon on the one hand, and the co-terminal points Portland, Oregon; Seattle, Washington; Los Angeles and San Francisco, California on the other hand. Conforming Applications and Answers are due August 4, 1980.
July 8, 1980	38444	United Air Lines, Inc., P.O. Box 66100, Chicago, Illinois 60666. Application of United Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Regulations requests an amendment of its Certificate of Public Convenience and Necessity for Route 1 so as to authorize it to perform scheduled roundtrip nonstop air transportation between Chicago, Illinois and Oklahoma City, Oklahoma. Answers may be filed by July 17, 1980.
July 8, 1980	38445	United Air Lines, Inc., P.O. Box 66100, Chicago, Illinois 60666. Application of United Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Regulations requests an amendment of its Certificate of Public Convenience and Necessity for Route 1 so as to authorize it to perform scheduled roundtrip nonstop air transportation between Chicago, Illinois and Tulsa, Oklahoma. Answers may be filed by July, 17, 1980.
July 11, 1980	38463	Maersk Air I/S, c/o Peter J. Nickles, Covington & Burling, 888 Sixteenth Street, N.W., Washington, D.C. 20006. Application of Maersk Air I/S pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations, requests (1) an amendment of its foreign air carrier permit to authorize scheduled foreign air transportation with respect to persons and their accompanying baggage, property and mail between terminal points in Guyana and Miami, Florida, with an intermediate stop in Port-of-Spain, Trinidad, and (2) approval of the lease agreement with Guyana Airways. Answers are due August 8, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-21705 Filed 7-17-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Auto Specialties Manufacturing Company, 643 Graves Street, St. Joseph, Michigan 49085, producer of automotive jacks, castings and brakes (accepted July 1, 1980); (2) Beach Manufacturing Company, Mill and High Streets, Montrose, Pennsylvania 18801, producer of sanders, saws and shapers (accepted July 1, 1980); (3) Bern Haven, Inc., Center Street and Railroad, Mount Wolf, Pennsylvania 17347, producer of maternity tops and children's dresses (accepted July 1, 1980); (4) Electro-Sonics, Inc., Main Street, Spofford, New Hampshire 03462, a producer of circuit boards and electric assemblies (accepted July 1, 1980); (5) The Duplan Corporation, 1430 Broadway, New York, New York 10018, producer of buttons and women's and children's underwear and sleepwear (accepted July 2, 1980); (6) Grabaciones Areyto, Inc., Apartado Postal 1741, Arecibo, Puerto Rico 00612, producer of tape cartridges and cassettes (accepted July 2, 1980); (7) A. C. Lawrence Leather Company, Inc., Danvers Industrial Park, Danvers, Massachusetts 01923, processor of leather (accepted July 2, 1980); (8) Bates Fabrics, Inc., P.O. Box 591, Lewiston, Maine 04240, producer of bedspreads, draperies, table covers, and yarn (accepted July 2, 1980); (9) Bentex Kiddie Corporation, 40 Jackson Street, Freehold, New Jersey 07728, producer of children's dresses and playsuits (accepted July 2, 1980); (10) Solon Manufacturing Company, Ferry Street, Solon, Maine 04979, producer of ice cream sticks, coffee stirrers and medical scrapers (accepted July 3, 1980); (11) Clifton Heights Sportswear, Inc., 500 East Broadway Avenue, Clifton Heights, Pennsylvania 19018, producer of women's jackets (accepted July 3, 1980); (12) Fox Knapp, Inc., One West 34th Street, New York, New York 10001, producer of men's and boys' coats, jackets, and shirts (accepted July 7, 1980); (13) Midwest Coating Research Corp., Itasca, Illinois 60143, producer of coated optical glass prisms and mirrors; solar collector tubes; and trophies (accepted July 7, 1980); (14) Arbitman

and Arbitman, Inc., 230 West 38th Street, New York, New York 10018, producer of women's coats (accepted July 7, 1980); (15) Pacific Logging Company, Rt. 1, Box 140, Humptulips, Washington 98552, producer of cedar shakes (accepted July 7, 1980); (16) Richtone Knits, Ltd., 498 Seventh Avenue, New York, New York 10018, producer of women's suits and dresses (accepted July 8, 1980); (17) Dornan Mills, Inc., Box 237, Ware, Massachusetts 01082, producer of wool and wool-blend fabrics (accepted July 8, 1980); (18) Bonnell Manufacturing Company, Inc., Church Road and Roland Avenue, Mt. Laurel, New Jersey 08054, producer of women's dresses (accepted July 8, 1980); (19) Janice Manufacturing Co., Inc., 371 Pine Street, Providence, Rhode Island 02903, producer of jewelry (accepted July 8, 1980); (20) Smart Modes of California, Inc., 901 South Broadway, Los Angeles, California 90015, producer of women's coats, jackets and sweaters (accepted July 8, 1980); (21) B. B. G. Textile Corporation, 320 Fifth Avenue, New York, New York 10001, producer of knit fabric (accepted July 8, 1980); (22) Guemar Dress Corporation, #1 Prudencio Rivera Martinez Street, Hato Rey, Puerto Rico 00919, producer of women's blouses, dresses and pants (accepted July 8, 1980); (23) The Harwood Companies, Inc., 666 Fifth Avenue, New York, New York 10103, producer of men's pajamas, underwear, shirts and shorts; and women's sleepwear (accepted July 9, 1980); (24) Home Arts Products, Inc., P.O. Box 2040, Des Plaines, Illinois 60018, producer of bag and purse handles and needlework blockers (accepted July 9, 1980); (25) McCreary Tire & Rubber Company, 1600 Washington Street, Indiana, Pennsylvania 15701, producer of automotive tires (accepted July 9, 1980); (26) J. R. M. Fashions, 1200 Santee Street, Los Angeles, California 90015, producer of women's blouses and skirts (accepted July 9, 1980); and (27) Yoder Manufacturing Company, 1823 East 17th Street, Little Rock, Arkansas 72203, producer of bicycle horns, cabinet hardware, lawn sprinklers and marine brackets (accepted July 11, 1980).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

Jack W. Osburn, Jr.,

Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.

[FR Doc 80-21634 Filed 7-17-80; 8:45 am]

BILLING CODE 3510-24-M

Riverfront Entertainment Center Jeffersonville, Ind.; Intent Not To Issue a Final Environmental Impact Statement

Notice is hereby given that a Final Environmental Impact Statement (EIS), pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, for the proposed Title IX Implementation Grant for a riverfront entertainment center to be located in Jeffersonville, Indiana, will not be issued.

On April 13, 1979 there appeared in the Federal Register (44 FR 22170) a notice of the publication of the Draft EIS for the proposed grant. The local proponents of the grant have since withdrawn it from further consideration by EDA.

Questions regarding the disposition of this project may be directed to Andrew E. Kauders, EIS Coordinator, phone number 202/377-4208, Room 7217 (EDA), U.S. Department of Commerce, Washington, D.C. 20230.

Dated: July 15, 1980.

Robert Hall,

Assistant Secretary for Economic Development.

[FR Doc. 80-21633 Filed 7-17-80; 8:45 am]

BILLING CODE 3510-24-M

National Technical Information Service

U.S. Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly, foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to avoid premature disclosure. Claims and other technical data will usually be made available to serious prospective licensees upon execution of a non-disclosure agreement.

Requests for information on the licensing of particular inventions should be directed to the addresses cited for the agency-sponsors.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

U.S. Department of Health and Human Services, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20205

Patent Application 6-079,566: "Neisseria gonorrhoeae" Vaccine; filed Sep. 27, 1979.

Patent Application 6-098,845: Aziridinyl Quinone Antitumor Agents; filed Nov. 30, 1979.

National Aeronautics and Space Administration, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent Application 6-034,104: Thrust Augmented Spin Recovery Device; filed Apr. 27, 1979.

Patent Application 6-043,943: Automatic Thermal Switch; filed May 30, 1979.

Patent Application 6-060,434: Process for the Preparation of New Elastomeric Polytriazines; filed Jul. 25, 1980.

Patent Application 6-01,555: Catalyst Surfaces for the Chromous/Chromic Redox Couple; filed Jul. 27, 1979.

Patent Application 6-065,676: Frequency-Scanning Particle Size Spectrometer; filed Aug. 10, 1979.

Patent Application 6-076,635: Internal Combustion Engine with Electrostatic Discharging Fuels; filed Sep. 18, 1979.

Patent Application 6-092,141: Tackifier for Addition Polyimides; filed Nov. 7, 1979.

Patent Application 6-092,170: Thermal Barrier Seal; filed Mar. 10, 1980.
Patent Application 6-096, 255: Gas Path Seal; filed Nov. 20, 1979.
Patent Application 6-102,001: Laser Measuring System for Incremental Assemblies; filed Dec. 7, 1979.
Patent Application 6-102, 002: Rim Inertial Measuring System; filed Dec. 7, 1979.
Patent Application 6-102,004: Circumferential Shaft Seal; filed Dec. 7, 1979.
Patent Application 6-103,836: Improved Tire/Wheel Concept; filed Dec. 12, 1979.
Patent Application 6-106,136: Liquid-Immersible Electrostatic Ultrasonic Transducer; filed Dec. 21, 1979.
Patent Application 6-106,190: Liquid Metal Slip Ring; filed Dec. 21, 1979.
Patent Application 6-108,107: Moving Body Velocity Arresting Line; filed Dec. 28, 1979.
Patent Application 6-111,439: A Fluorescent Radiation Converter; filed Jan. 11, 1980.
Patent Application 6-113,017: Flared Tube Attach System; filed Jan. 18, 1980.
Patent Application 6-119,339: High Power Metallic Halide Laser; filed Feb. 7, 1980.
Patent Application 6-119,340: Method of and Means for Retarding Dye Fading During Archival Storage of Developed Color Photographic Film; filed Feb. 7, 1980.
Patent 4,178,100: Distributed-Switch Dicke Radiometers; filed Mar. 29, 1978, patented Dec. 11, 1979; not available NTIS.
Patent 4,182,156: Static Pressure Orifice System Testing Method and Apparatus; filed Aug. 17, 1978; patented Jan. 8, 1980; not available NTIS.
Patent 4,183,217: Pressure Limiting Propellant Actuating System; filed Aug. 4, 1978; patented Jan. 15, 1980; not available NTIS.
Patent 4,184,072: Solar Cell Angular Position Transducer; filed Feb. 9, 1978; patented Jan. 15, 1980; not available NTIS.
Patent 4,184,111: Driver for Solar Cell I-V Characteristic Plots; filed Jul. 26, 1978; patented Jan. 15, 1980; not available NTIS.
Patent 4,184,149: Air Speed and Attitude Probe; filed May 30, 1978; patented Jan. 15, 1980; not available NTIS.
Patent 4,184,155: Radar Target for Remotely Sensing Hydrological Phenomena; filed Sep. 22, 1978; patented Jan. 15, 1980; not available NTIS.
Patent 4,184,327: Method and Apparatus for Rapid Thrust Increases in a Turbofan Engine; filed Dec. 9, 1977; patented Jan. 22, 1980; not available NTIS.
Patent 4,184,368: Oceanic Wave Measurement System; filed Oct. 16, 1978; patented Jan. 22, 1980; not available NTIS.
Patent 4,184,472: Method and Apparatus for Slicing Crystals; filed May 15, 1978; patented Jan. 22, 1980; not available NTIS.
Patent 4,184,491: Intra-Ocular Pressure Normalization Technique and Equipment; filed Aug. 31, 1977, patented Jan. 22, 1980, not available NTIS.
Patent 4,184,609: Cryogenic Container Compound Suspension Strap; filed Aug. 22, 1978, patented Jan. 22, 1980; not available NTIS.
Patent 4,184,903: Method of Fabricating a Photovoltaic Module of a Substantially Transparent Construction; filed Jul. 26, 1978, patented Jan. 22, 1980; not available NTIS.
Patent 4,185,164: Voltage Feed Through Apparatus Having Reduced Partial Discharge; filed Jan. 10, 1978, patented Jan. 22, 1980; not available NTIS.
Patent 4,185,493: Viscosity Measuring Instrument; filed Jun. 23, 1978, patented Jan. 29, 1980; not available NTIS.
Patent 4,186,347: Radio Frequency Arraying Method for Receivers; filed Oct. 31, 1978, patented Jan. 29, 1980; not available NTIS.
Patent 4,186,749: Induction Powered Biological Radiosonde; filed May 12, 1977, patented Feb. 5, 1980; not available NTIS.
Patent 4,187,394: High-Speed Data Link for Moderate Distances and Noisy Environments; filed Apr. 25, 1978, patented Feb. 5, 1980; not available NTIS.
Patent 4,187,416: High Power RF Coaxial Switch; filed Oct. 10, 1978, patented Feb. 5, 1980; not available NTIS.
Patent 4,187,470: Dielectric-Loaded Waveguide Circulator for Cryogenically Cooled and Cascaded Maser Waveguide Structures; filed Feb. 9, 1978, patented Feb. 5, 1980; not available NTIS.
Patent 4,187,506: Microwave Power Transmission Beam Safety System; filed Oct. 16, 1978, patented Feb. 5, 1980; not available NTIS.
Patent 4,188,368: Method of Producing Silicon; filed Mar. 29, 1978, patented Feb. 12, 1980; not available NTIS.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217

Patent Application 638,885: Test Connector; filed Dec. 8, 1975.
Patent Application 674,206: A Valve for Independently Throttling a Plurality of Hydraulic Lines; filed Apr. 6, 1976.
Patent Application 674,254: Meltable Bifunctional Quinoxaline Monomer and Preparation of a Polymer Therefrom; filed Apr. 6, 1976.
Patent Application 684,527: Film-Recording Noise Dosimeter; filed May 10, 1976.
Patent Application 708,236: A Novel Method for the Production of Hydrogen-Carbon Monoxide Mixtures; filed Jul. 23, 1976.
Patent Application 708,505: An Underwater Connector; filed Jul 30, 1976.
Patent Application 712,128: Fabrication of Ablator Liners in Combustors; filed Aug. 5, 1976.
Patent Application 712,417: Polymeric-Coated HMX Crystals for Use with Propellant Materials; filed Aug. 6, 1976.
Patent Application 716,481: Reinforced Filament-Wound Cut-Port Pressure Vessel and Method of Making Same; filed Aug. 20, 1976.
Patent Application 716,729: Preparation of Ceramics; filed Aug. 23, 1976.
Patent Application 720,175: 7-Amino Coumarin Dyes for Flashlamp-Pumped Dye Lasers; filed Sep. 3, 1976.
Patent Application 723,001: A Sliding-Tone Command Receiver System; filed Sep. 13, 1976.
Patent Application 723,696: Coating Composition and Method for Improving Propellant Tear Strength; filed Sep. 16, 1976.
Patent Application 741,904: Short Pulse Solid State-Magnetic Modulator for Magnetron Transmitter; filed Nov. 15, 1976.
Patent Application 745,931: Multi Element Tubular Reference Electrode (M.E.T.R.E.); filed Nov. 29, 1976.
Patent Application 752,571: Method for Fabricating Ferroelectric Ultrasonic Transducers; filed Dec. 20, 1976.
Patent Application 752,641: Apparatus for Performing a Discrete Cosine Transform of an Input Signal; filed Dec. 20, 1976.
Patent Application 753,140: Motion Compensating Liquid Holding Tank; filed Dec. 20, 1976.
Patent Application 757,819: Inductive Communication System; filed Jan. 10, 1977.
Patent Application 762,707: Ion-Implanted Barriers for Reducing Alkali Ion Drift in Thin film Insulators; filed Jan. 26, 1977.
Patent Application 764,482: Method of Making Tuned Resonance Passive Electronic Filters; filed Jan. 31, 1977.
Patent Application 767,424: Growth of Epitaxial Layers from a Liquid Phase; filed Feb. 10, 1977.
Patent Application 770,330: Digital Bypassable Register Interface; filed Feb. 22, 1977.
Patent Application 770,863: Optical Switch; filed Feb. 22, 1977.

[FR Doc. 80-21624 Filed 7-17-80; 8:45 am]
BILLING CODE 3510-04-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to review status reports on development of fishery management plans; consider foreign fishing applications, if any; and conduct other fishery management business.

DATES: The meetings will convene on Tuesday, August 5, 1980, at 1:30 p.m., reconvene on Wednesday, August 6, 1980, at 8:30 a.m., and adjourn both days at approximately 5 p.m.; on Thursday, August 7, 1980, also reconvene at 8:30 a.m., but adjourn at approximately 12 noon. The meetings are open to the public.

ADDRESS: The meetings will take place at the Landmark Motor Hotel, Hacienda Room, 2601 Severn Avenue, Metairie, Louisiana.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 338-2815.

Dated: July 11, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-21706 Filed 7-17-80; 8:45 am]

BILLING CODE 3510-22-M

Gulf of Mexico Fishery Management Council's Stone Crab Subpanel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), has established a Stone Crab Subpanel, which will meet to review the first year of operations of the Stone Crab Fishery Management Plan.

DATES: The meeting, which is open to the public, will convene at 8:30 a.m., on Tuesday, August 19, 1980, and will adjourn at approximately 5 p.m.

ADDRESS: The meeting will take place at the Barclay Best Western, Tampa Room, 5303 West Kennedy Boulevard, Tampa, Florida.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 338-2815.

Dated: July 11, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-21707 Filed 7-17-80; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council's Sea Scallop Resources Subpanel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), has established a Sea Scallop Resources Subpanel, which will meet to discuss the draft fishery management plan for the scallop fishery. The meeting may be lengthened or shortened, or agenda items rearranged, depending upon progress on the agenda.

DATES: The meeting, which is open to the public, will convene on August 5, 1980, at approximately 10 a.m., and will adjourn at approximately 5 p.m.

ADDRESS: The meeting will be held at the Best Western Airport Inn, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115—Federal Building, Dover, Delaware 19901, Telephone: (302) 674-2331.

Dated: July 11, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-21709 Filed 7-17-80; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council, Its Scientific and Statistical Committee and Advisory Panel; Public Meeting With Partially Closed Session

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Western Pacific Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and the Council has established a Scientific and Statistical Committee and Advisory Panel to assist in carrying out its responsibilities.

DATES: July 28-August 1, 1980.

ADDRESS: The meetings will take place at the Naniloa Surf Hotel, Kilohana Room, Hilo, Hawaii.

FOR FURTHER INFORMATION CONTACT: Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1608, Honolulu, Hawaii 96813, Telephone: (808) 523-1368.

Meeting Agendas follow: *Advisory Panel (AP)*—(open meeting) July 28-29, 1980 (1 p.m. to 5 p.m., on July 28; 8:30 a.m. to 3:30 p.m. on July 29).

Agenda: Discuss fishery management plans (FMP's) under development and conduct other Committee business.

Scientific and Statistical Committee (SSC)—(open meeting) July 30-31, 1980, (8:30 a.m. to 5 p.m. on July 30; 8 a.m. to 12 noon on July 31).

Agenda: Discuss FMP's under development and conduct other Committee business.

Council—(open meeting) July 31 and August 1, 1980 (9:30 a.m. to 5 p.m. on July 31; 8:30 a.m. to 3:30 p.m. on August 1).

Agenda: Open Session—Review of FMP's; conduct other fishery management business.

Council—(closed session) July 31 (7:30 a.m. to 9:30 a.m.)

Agenda: Closed Session—Discuss personnel matters concerning the selection of an Executive Director.

The Assistant Secretary for Administration of the Department of Commerce with the concurrence of its General Counsel, formally determined on July 8, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(6) as information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. (A copy of the determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Department of Commerce.) All other portions of the meeting are open to the public.

Dated: June 11, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-21708 Filed 7-17-80; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980: Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1980 services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: July 18, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On April 18, 1980 and May 16, 1980, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (45 FR 26411 and 45 FR 32362) of proposed additions to Procurement List 1980, November 27, 1979 (44 FR 67925).

After consideration of the relevant matter presented, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following services are hereby added to Procurement List 1980:

SIC 7349

Janitorial/Custodial Service, U.S. Army Reserve Center, Malone, New York.

SIC 0782

Grounds Maintenance/Cleanup Service, Naval Ordnance Station, Indian Head, Maryland.

C. W. Fletcher,

Executive Director.

[FR Doc. 80-21476 Filed 7-17-80; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1980; Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee has received a proposal to add to Procurement List 1980 commodities to be produced by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: August 20, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 479(a)(2), 85 Stat. 77. Its purpose is to provide interested parties an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the commodities listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities to Procurement List 1980, November 1979 (44 FR 67925):

Class 6645

Clock, Electric, Wall
6645-00-514-3523
6645-00-530-3342

C. W. Fletcher,

Executive Director.

[FR Doc. 80-21478 Filed 7-17-80; 8:45 am]

BILLING CODE 6820-33-M

COUNCIL ON WAGE AND PRICE STABILITY

Announcement of Price Advisory Committee Meeting

AUTHORITY OF COMMITTEE: The Price Advisory Committee was established by the Council on Wage and Price Stability pursuant to Executive Order 12161 (44 FR 56663).

TIME AND PLACE OF MEETING: The next meeting of the Price Advisory Committee will be July 23, 1980, at 10:00 a.m. in Room 2008 of the New Executive Office Building, 726 Jackson Place, NW, Washington, D.C. 20503.

PURPOSE OF MEETING: The purpose of the meeting will be to continue unfinished business from the Committee's earlier meetings.

PUBLIC PARTICIPATION: The meeting of the Price Advisory Committee will be open to the public. Public attendance will, however; be limited by available space; persons will be seated on a first-come first-served basis. Persons attending the meeting will not be permitted to speak or participate in Committee's deliberations. Interested persons will be permitted to file written statements with the Committee by mail or personal delivery to the Office of General Counsel, Council on Wage and Price Stability, 600 17th Street, NW, Washington, D.C. 20506.

ADDITIONAL INFORMATION: For additional information, please telephone the Office of Public Affairs at (202) 456-6756.

Dated: July 16, 1980.

David A. Henderson,

Acting Advisory Committee Management Officer.

[FR Doc. 80-21758 Filed 7-17-80; 8:45 am]

BILLING CODE 3175-01-M

DEPARTMENT OF EDUCATION

National Advisory Council for Career Education; Meeting

AGENCY: Department of Education, National Advisory Council for Career Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meeting of the National Advisory Council for Career Education. It also describes the functions of the Council. Notice of the meetings is required pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). This document is intended to notify the general public of their opportunity to attend.

DATE: August 16, 1980.

ADDRESS: Bethesda Marriott Hotel, Two Pooks Hill Road, Bethesda, Maryland 20014.

FOR FURTHER INFORMATION CONTACT: Dr. Frank K. Babcock, Department of Education, Office of Career Education, 7th and D Streets, S.W., ROB #3, Room 3100, Washington, D.C. 20202 (202) 245-2284.

The National Advisory Council for Career Education is established under Section 406 of the Education Amendments of 1974, Pub. L. 93-380, (88 Stat. 552, 553). The Council is directed to:

Advise the Secretary of Education and the Assistant Secretary for Elementary and Secondary Education on the implementation of Section 406 of the Education Amendments of 1974, Sections 331-336 of the Education Amendments of 1976, and the Career Education Incentive Act and carry out such advisory functions as it deems appropriate, including reviewing the operation of these sections and all other programs of the Department of Education pertaining to the development and implementation of career education, evaluating their effectiveness in meeting the needs of career education throughout the United States, and in determining the need for further legislative remedy in order that all citizens may benefit from the purposes of career education as described in section 406 and in the Career Education Incentive Act.

The Secretary, to the extent practicable, seeks the advice and assistance of the Council concerning the lifelong learning activities authorized by Sec. 133 of Title I of the Higher Education Act of 1965, as amended.

The meeting of the Council shall be open to the public. The meeting will be held on Saturday, August 16, 1980 and will begin at 10:45 a.m. and end at 5:00 p.m. The meeting will be held at the Bethesda Marriott Hotel, Two Pooks Hill Road, Bethesda, MD 20014.

The proposed agenda:

Council Update.

The Council will take testimony from representatives of community based organizations and State and local career education coordinators, participating in the National Conference on Community Partnerships in Career Education.

Council Discussion, Recommendations, Future Meetings.

Records shall be kept of all Council proceedings and shall be available 14 days after the meeting for public inspection at the Office of Career Education located at 7th and D Streets, S.W.—Room 3100, ROB 3, Washington, D.C. 20202.

Signed at Washington, D.C. on July 8, 1980.

John Lindia,

Delegate, National Advisory Council for Career Education.

[FR Doc. 80-21620 Filed 7-17-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 80-CERT-021]

Arizona Public Service Co.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

On October 2, 1979, Arizona Public Service Company (Arizona Public), P.O. Box 21666, Phoenix, Arizona 85036, was granted a certificate of eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 79-CERT-054). The certification involved the purchase of natural gas from the Delhi Gas Pipeline Corporation (Delhi) to be transported by the El Paso Natural Gas Company (El Paso) for use by Arizona Public at its Ocotillo Plant in Tempe, Arizona, West Phoenix Plant in Phoenix, Arizona, Saguaro Plant in Red Rock, Arizona, and Yuma Plant in Yuma, Arizona. To date, no natural gas has been purchased from Delhi under this certification.

On May 30, 1980, Arizona Public filed another application for certification of an eligible use of the same amounts of natural gas to displace fuel oil at the same facilities, listed in its previous certificate (79-CERT-054), but a portion of the gas is to be purchased from Bixco, Inc., 411 North Central Avenue, P.O. Box 20864, Phoenix, Arizona. Arizona Public requests that it still be permitted to purchase gas from Delhi, but states that the total amount of gas used to displace fuel oil, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979), even if purchased from both sellers, would not exceed the volumes requested in this application. More detailed information is contained in the application on file with the ERA, ERA and available for public inspection at the Docket Room 7108, 2000 M Street NW., Washington, D.C. 20461, from 8:30 a.m.-4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Arizona Public states that the volumes of natural gas for which it requests certification are 10,832,000 Mcf per year for the Ocotillo Plant, 1,671,000 Mcf per year for the West Phoenix Plant, 5,470,000 Mcf per year for the Saguaro Plant, and 2,808,000 Mcf per year for the Yuma Plant. This volume is estimated to displace the use of the following quantities of fuel oil per year:

	No. 1 (0.9 percent sulfur)	No. 2 (0.5 percent sulfur)
Ocotillo Plant	1,635,500	250,000
West Phoenix Plant	53,200	251,400
Saguaro Plant	715,800	243,800
Yuma Plant	346,300	147,800

The gas would be transported by the El Paso Natural Gas Company, P.O. Box 1492, El Paso, Texas 79978.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 7108, 2000 M Street NW., Washington, D.C. 20461, Attention: Mr. Albert F. Bass, within ten (10) calendar days of the date of publication of this notice in the Federal Register (July 28, 1980).

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Arizona Public and any persons filing comments and will be published in the Federal Register.

Issued in Washington, D.C., on July 14, 1980.

F. Scott Bush,

Regulations and Emergency Planning. Economic Regulatory Administration.

[FR Doc. 80-21482 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-01-M

Canadian Crude Oil Allocation Program Supplemental Allocation Notice for the July 1 Through September 30, 1980, Allocation Period

In accordance with the provisions of the Mandatory Canadian Crude Oil Allocation Regulations, 10 CFR Part 214, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues a supplemental allocation notice to reflect the export levels of Canadian light and heavy crude oil for the month of August 1980.

Since October 1979, exports of crude oil from Canada have been authorized on a monthly, rather than a quarterly, basis. Consequently, the volumes listed in the allocation notice issued on June 27, 1980 (45 FR 45347, July 3, 1980), represented only volumes to be exported in July 1980. This supplemental notice lists only Canadian crude oil volumes which will be exported in the month of August 1980.

Redesignation of Priority Status

On April 17, 1980, the Department of Energy's Office of Hearings and Appeals (OHA) issued a Decision and Order with respect to appeals filed by the Mobil Oil Corporation from four allocation notices issued by ERA under the Canadian Crude Oil Allocation Program. *Mobil Oil Corporation*, Case Nos. DEA-0235, 0387, 0589; and BEA-0035. OHA concluded that ERA erred in not reclassifying Ashland and Koch's Minnesota refineries as second priority refineries for the fourth allocation quarter of 1978 and the second, third, and fourth allocation quarters of 1979.

It is ERA's belief that the legal and factual determinations made by OHA with respect to the Ashland and Koch refineries' access to non-Canadian crude oil in the allocation periods specified above are equally applicable to future allocation periods. Accordingly, on May 16, 1980, Ashland and Koch were formally advised that ERA intended to redesignate the Ashland refinery at St. Paul Park, Minnesota, and the Koch refinery at Pine Bend, Minnesota, second priority refineries for the June 1980 Supplemental Allocation Notice and, with the possible exception of the first allocation quarter in each year, in every subsequent allocation quarter. With respect to the first allocation quarter of each year, ERA intended to make a determination of the refineries' priority status at a later time.

However, in May 1980, the United States District Court for the District of Minnesota enjoined DOE from implementing reclassification of the Koch and Ashland refineries from first priority to second priority status pending a hearing and determination of the motion for a preliminary injunction.

In accordance with the requirements of these Temporary Restraining Orders, the Ashland and Koch refineries will remain first priority for the August 1980 Allocation Notice.

Allocation of Canadian Light Crude Oil

The Canadian National Energy Board (NEB) has formally advised ERA that the total volume of Canadian light crude oil authorized for export to the United States for the month of August 1980, and, therefore, subject to allocation under Part 214, will be 50 barrels/day (B/D), all of which is operationally constrained through the Union Oil pipeline from the Reagan field in Canada to the Flying J, Inc. (formerly ICG Vista) Thunderbird refinery (second priority) at Cut Bank, Montana. Pursuant to 10 CFR 214.35, ERA will give effect to

the operational constraint regarding the Thunderbird refinery in the issuance of Canadian crude oil rights for the month of August.

Allocation of Canadian Heavy Crude Oil

The NEB has advised ERA that the authorized export level for Canadian heavy crude oil for the month of August 1980 is 31,620 B/D. In allocating heavy crude oil for August, ERA has used the procedures set forth in § 214.31(a)(3).

Due to the relatively low export level for heavy crude oil for August, only first priority refineries are entitled to heavy crude oil allocations, pursuant to the first step specified in § 214.31(a)(3).

The issuance of Canadian heavy crude oil rights, expressed in barrels/day, for August 1980 to refiners and other firms nominating for heavy crude oil for the July–September allocation period is as follows:

	Refiner/refinery	Base period volumes[1] Canadian total	Base period volumes[1] Canadian heavy crude	Nomination	Allocation
Priority:					
II	Ashland—Buffalo, NY	36,752	4,719	2,800	0
II	Ashland—Findley, OH	2,198	2,165	1,300	0
I	Ashland—St. Paul Park, MN	44,707	4,803	7,000	1,926
I	Koch—Pine, MN	74,383	68,692	95,000	27,540
II	Laketon—Laketon, IN	141	131	200	0
II	Mobil—Buffalo, NY	24,995	0	6,036	0
II	Mobil—Ferndale, WA	45,444	0	10,975	0
II	Mobil—Joliet, IL	14,606	12,474	12,989	0
I	Murphy—Superior, WI	25,625	5,372	6,000	2,154
II	Union—Lemont, IL	11,711	0	20,000	0
Total Priority I					31,620
Total Priority II					0
Total I and II					31,620

[1] Base period volume for the purposes of this notice means average number of barrels of Canadian crude oil included in a refinery's crude oil runs to stills or consumed or otherwise utilized by a facility other than a refinery during the base period (November 1, 1974, through October 31, 1975) on a barrels per day basis. For the base period volumes of all priority refineries, see Allocation Notice issued December 29, 1979 (45 FR 1664, January 8, 1980).

On or prior to the thirtieth day preceding each allocation period, each refiner or other firm that owns or controls a first priority refinery shall file with ERA the supplemental affidavit specified in § 214.41(b) to confirm the continued validity of the statements and representations contained in the previously filed affidavit or affidvaits, upon which the designation for that priority refinery is based. Each refiner or other firm owning or controlling a first or second priority refinery shall also file the periodic report specified in § 214.41(d)(1) on or prior to the thirtieth day preceding each allocation period, provided, however, that the information as to estimated nominations specified in § 214.41(d)(1)(i) is not required to be reported.

Within 30 days following the close of each three-month allocation period, each refiner or other firm that owns or controls a priority refinery shall file the periodic report specified in § 214.41(c)(2) certifying the actual volumes of Canadian crude oil and Canadian plant condensate included in the crude oil runs to stills, consumed or otherwise utilized by each such priority refinery (specifying the portion thereof that was allocated under Part 214) for the allocation period.

This notice is issued pursuant to Subpart G of ERA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with DOE's Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before August 18, 1980.

Issued in Washington, D.C., on July 11, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-21460 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 80-CERT-022]

International Harvester Co.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

International Harvester Company (International Harvester), 401 North Michigan Avenue, Chicago, Illinois 60611, filed on June 9, 1980 an application for certification of an eligible use of natural gas to displace fuel oil at its foundry and factory complex located in Memphis, Tennessee, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file with the Economic Regulatory Administration (ERA) and available for public inspection at the ERA, Docket Room 7108, 2000 M Street, NW., Washington, D.C. 20461, from 8:30 a.m.–4:30 p.m., Monday through Friday, except Federal holidays.

In its application, International Harvester states that the volume of natural gas for which it requests certification is up to 75,000 Mcf per year. this volume is estimated to displace the use of approximately 500,000 gallons (11,905 barrels) of No. 6 fuel oil (0.3 percent sulfur) between November 1, 1980 and April 30, 1981 which is the period when the applicant's natural gas supply will be curtailed by its regular supplier because of cold weather. The eligible seller is the Southern Ohio Energy Company, 401 North Michigan Avenue, Chicago, Illinois 60611, a wholly owned subsidiary of International Harvester. The gas would be transported by the Columbia Gas Transmission Corporation, P.O. Box 1273, Charleston, West Virginia 25325, the Texas Gas Transmission Corporation, 3800 Frederica Street, Owensboro, Kentucky 42301, and the Memphis Light, Gas and Water Division, P.O. Box 430, Memphis, Tennessee 38101.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 7108, 2000 M Street, NW., Washington, D.C. 20461,

Attention: Mr. Albert F. Bass, within ten (10) calendar days of the date of publication of this notice in the Federal Register (July 28, 1980).

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to International Harvester and any persons filing comments and will be published in the Federal Register.

Issued in Washington, D.C., on July 14, 1980.

F. Scott Bush,

Assistant Administrator, Regulation and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 80-21461 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-01-M

Reorganization of Natural Gas Functions Within the Economic Regulatory Administration

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of reorganization of natural gas functions within the Economic Regulatory Administration.

SUMMARY: All operational and programmatic responsibilities for natural gas functions within the Economic Regulatory Administration of the Department of Energy have been consolidated and assigned to the Division of Natural Gas in the Office of Regulations and Emergency Planning. Previously such responsibility was divided between the Division of Natural Gas Regulations in the Office of Regulations and Emergency Planning, which was responsible for natural gas regulatory development, and the Import/Export Division in the Office of Petroleum Operation, which was responsible for administration of natural gas import and export proceedings and the certification of natural gas to displace fuel oil.

EFFECTIVE DATE: July 2, 1980.

FOR FURTHER INFORMATION CONTACT: Lawrence A. DiRicco, Division of Natural Gas, Economic Regulatory Administration, 2000 M Street, NW, Room 7108, Washington, D.C. 20461, (202) 653-3220.

SUPPLEMENTARY INFORMATION: The Division of Natural Gas has assumed responsibility for all pending and future natural gas import or export proceedings pursuant to Section 3 of the Natural Gas Act and within ERA's jurisdiction. The Division of Natural Gas is also now responsible for the certification of fuel oil displacement by natural gas pursuant to 10 CFR Part 595, which is a companion rule to the Federal Energy Regulatory Commission's Order No. 30. All references to the Office of Petroleum Operations in the fuel oil displacement regulations at 10 CFR Part 595 should be considered to refer to the "Division of Natural Gas."

Accordingly, all filings with respect to natural gas proceedings, including applications to import and export natural gas and for certification of fuel oil displacement, should be submitted to the: Division of Natural Gas, Economic Regulatory Administration, 2000 M Street, NW, Room 7108, Washington, D.C. 20461.

Submittals delivered by hand should be presented between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except on Federal legal holidays.

Issued in Washington, D.C., July 14, 1980.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 80-21463 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-80-016; OFC Case No. 55029-9012-04-12]

St. Regis Paper Co.; Availability of Tentative Staff Determination

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of availability of tentative staff determination.

SUMMARY: On April 10, 1980, St. Regis Paper Company (St. Regis) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting a new major fuel burning installation (MFBI) from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*), which prohibit the use of petroleum or natural gas as a primary energy source in certain new MFBI's. Criteria for petitioning for exemptions from the prohibitions of FUA are published at 10 CFR, Part 500, *et seq.* (Interim Rules).

The MFBI for which the petition was filed is a field-erected boiler to be constructed at St. Regis' Pensacola-Kraft Center Mill, Cantonment, Florida. The boiler, designated as No. 4 Bark/Power Boiler by St. Regis, will have a design heat input rate capability of 690 million Btu's per hour, a steam generating capacity of 420,000 pounds per hour and will be able to burn wood waste in a mixture with natural gas. St. Regis requested a permanent fuel mixture exemption for the MFBI in order to use a fuels mixture of wood waste and not more than 25 percent natural gas. ERA accepted St. Regis' petition on May 8, 1980, and published notice of its acceptance, together with a statement of the reasons set forth in the petition for requesting the exemption, in the Federal Register on May 15, 1980 (45 FR 32038). Publication of the notice of acceptance commenced a 45 day public comment period pursuant to Section 701 of FUA. During this period interested persons were also afforded an opportunity to request a public hearing. The period expired June 30, 1980. No comments were submitted nor was a hearing requested.

Based upon ERA's review and analysis of the information presently contained in the record of this proceeding, a Tentative Staff

Determination has been made recommending that ERA issue an order which would grant the requested permanent exemption to use a mixture of natural gas and wood waste in which the amount of natural gas used in the unit will not exceed 25 percent of the total annual Btu heat input of the primary energy sources of the unit.

ERA will issue a final order granting or denying the petition for a permanent exemption from the prohibitions of the Act within six months after the public comment period provided for in this notice has expired, unless ERA extends such period. Notice of any extension, together with a statement of reasons for such extension, will be published in the Federal Register.

DATES: Written comments on the Tentative Staff Determination are due on or before August 1, 1980.

ADDRESSES: Fifteen copies of written comments on the Tentative Staff Determination shall be submitted to: Economic Regulatory Administration, Case Control Unit (Fuel Use Act), Box 4629, Room 2313, 2000 M Street, NW., Washington, D.C. 20461.

Docket Number ERA–FC–80–016 should be printed clearly on the outside of the envelope and on the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128, Washington, D.C. 20461, Phone (202) 653–3679.

Robert Goodie, Case Manager, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3119, Washington, D.C. 20461, Phone (202) 653–3675.

Douglas Mitchell, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6G–087, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252–2967.

The public file containing a copy of the Tentative Staff Determination and other documents and supporting materials on this proceeding is available upon request at: ERA, Room B–110, 2000 M Street, NW., Washington, D.C., Monday through Friday, 8:00 a.m.–4:30 p.m.

SUPPLEMENTARY INFORMATION: The Economic Regulatory Administration (ERA) published Interim Rules on May 15 and 17, 1979 (10 CFR, Parts 500 *et seq.*) (44 FR 28530 and 44 FR 28950), to implement provisions of Title II of FUA. ERA has also published Final Rules relating to new facilities on June 6, 1980 (45 FR 38276 and 45 FR 38302) which will become effective August 5, 1980. Title II of FUA prohibits the use of natural gas or petroleum in certain new MFBI's unless an exemption for such use has been granted.

St. Regis Paper Company (St. Regis) is constructing at its Pensacola-Kraft Center Mill, Cantonment, Florida, a field-erected boiler which will have a design heat input rate capability of 690 million Btu's per hour, a steam generating capacity of 420,000 pounds per hour and will be capable of burning wood waste in a mixture with natural gas.

On April 10, 1980, in accordance with § 505.28 of the Interim Rules, St. Regis filed a petition with ERA requesting a permanent fuel mixture exemption for the boiler (designated as No. 4 Bark/Power Boiler by St. Regis) in order to burn simultaneously a fuels mixture of wood waste and natural gas. St. Regis has certified that the total amount of natural gas that is proposed to be used in the No. 4 Bark/Power Boiler will not exceed 25 percent of the total annual Btu heat input of the primary energy sources of that unit.

St. Regis contends that the chemical analysis, moisture content and heating value of the bark and wood fuel to be burned in the boiler are highly variable and that the use of natural gas in a mixture with the wood waste is necessary to provide stabilization of ignition and combustion, and symmetry of fuel input to the boiler.

ERA's staff has reviewed the information contained in the record of this proceeding to date. Based upon that review, a Tentative Staff Determination has been made which recommends that an order be issued which would grant a permanent fuels mixture exemption for the No. 4 Bark/Power Boiler to use a wood waste/natural gas fuels mixture in that unit, provided that the amount of natural gas used in the unit does not exceed 25 percent of the total annual Btu heat input of the primary energy source used in that MFBI. This tentative determination also takes into account the purposes for which the minimum percentage of natural gas provided by a fuels mixture exemption is to be used, i.e., to maintain reliability of operation, consistent with maintaining a reasonable level of fuel efficiency. Therefore, should this exemption be granted, ERA will not exclude any fuel from the definition of primary energy source for the purposes of unit ignition, start-up, testing, flame stabilization, and control uses for No. 4 Bark/Power Boiler.

This recommendation is based upon the petitioner's demonstration pursuant to Section 212(d)(1)(A) and (B) of the Act that he proposes to use a mixture of wood waste and natural gas as a primary energy source in the installation, and that the amount of natural gas to be used will not exceed 25 percent of the annual Btu heat input of the unit.

On the basis of the analysis provided by the Office of Fuels Conversion, and reviewed by the Office of Environment, with consultation from the Office of the General Counsel, DOE has concluded that the granting of this exemption will not be a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act of 1969 (NEPA). Accordingly, neither an environmental impact statement nor an environmental assessment is required.

RECOMMENDED TERMS AND CONDITIONS: ERA's staff also has tentatively determined and recommends that any order which would grant the requested fuels mixture exemption to St. Regis should, pursuant to Section 214 of the Act, be subject to the following terms and conditions:

1. No petroleum, as that term is defined in Section 103(a)(4) of the Act, shall be used in the No. 4 Bark/Power Boiler.

2. The amount of natural gas used in the No. 4 Bark/Power Boiler shall not exceed 25 percent of the total annual Btu heat input of the primary energy sources used in the unit.

3. In accordance with the reporting requirement in Section 505.28(d), St. Regis will submit an annual report to the Economic Regulatory Administration (ERA), Case Control Unit (Fuel Use Act), Box 4629, Room 3214, 2000 M Street, NW., Washington, D.C. 20461, each year on the anniversary of the effective date of the exemption, containing the following:

(a) A certification that the amount of natural gas used in No. 4 Bark/Power Boiler did not exceed 25 percent of the total annual Btu heat input of the primary energy sources of that unit. The certification must be executed by a duly authorized representative of the company.

(b) Identification of the actual quantities of wood waste (in tons) and natural gas (in MCF) used in the No. 4 Bark/Power Boiler during the year, as well as the higher heating value (in Btu's per lb., per MCF) of those fuels. The

The Tentative Staff Determination does not constitute a decision by ERA to grant the requested exemption. Such a decision shall, in accordance with § 501.66 of the Interim Rules, be based on the entire record of this proceeding, including any comments received on the Tentative Staff Determination.

Issued in Washington, D.C., on July 14, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-21683 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER80-506]

Alabama Power Co.; Filing

July 10, 1980.

The filing Company submits the following:

Take notice that Alabama Power Company on July 2, 1980, tendered for filing a rate scheduled constituting an interchange contract between Alabama Power Company and Alabama Electric Cooperative, Inc. The service under the rate schedule is to commence on June 1, 1980. The interchange contract between Alabama Power Company and Alabama Electric Cooperative, Inc., provides for revision of the existing interconnection arrangements between the respective electric systems. The interchange contract provides for emergency service and economy interchange transactions, as well as a mechanism for purchase capacity arrangements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 1, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the following report format will be used: *Fuel type, Amount used (tons) (MCF), Btu equivalent, Percent of annual fuel consumption.*

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21406 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER79-528]

Cincinnati Gas & Electric Co.; Notice of Filing

July 10, 1980.

The filing Company submits the following:

Take notice that on June 25, 1980, Cincinnati Gas and Electric Company submitted for filing a compliance and refund report pursuant to the Commission's letter order, issued June 12, 1980, in the above-referenced proceeding.

A copy of this filing has been submitted to the Public Utilities Commission of Ohio, the Energy Regulatory Commission of Kentucky, and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before August 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21408 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP77-532]

Columbia Gas Transmission Corp.; Petition To Amend

July 10, 1980.

Take notice that on June 27, 1980, Columbia Gas Transmission Corporation (Petitioner), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP77-532 a petition to amend the order issued in the instant docket on December 16, 1977, as amended September 13, 1979, pursuant to Section 7(c) of the Natural Gas Act so as to authorize an extension of the transportation service provided by Petitioner for Libbey-Owens-Ford Company (LOF), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that on December 16, 1977, it was authorized to transport up to 550 Mcf of natural gas per day, on a best efforts basis, for a period of two years for LOF. The gas so transported was for ultimate delivery to two LOF plants located near Toledo, Ohio, it is said.

The order of September 13, 1979, amended the December 16, 1977 order by authorizing an increase in the volume of gas which Petitioner could transport for LOF from 550 Mcf per day to 2,250 Mcf per day, it is said. It is also stated that the transportation service for LOF under the two-year limitation would expire on July 13, 1980, inasmuch as initial deliveries by Petitioner commenced July 13, 1978.

Petitioner states that the transportation agreement between it and LOF was for a period of eight years and that Petitioner, in its original application in the instant docket, had requested authority to transport gas for LOF for a like term. Petitioner now requests an extension of its authorization to transport gas for LOF to the full eight-year term provided by its transportation agreement with LOF.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 31, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21409 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-1-21 (PGA80-2, IPR80-2, LFUT80-1, TT80-1, and AP80-1]

Columbia Gas Transmission Corp.; Informal Conference

July 11, 1980.

On January 30, 1980, Columbia Gas Transmission Corporation (Columbia) filed a refund plan pursuant to Section

282.506 of the Commission's Regulations. UGI Corporation filed a protest on February 14, 1980. An informal conference was held May 29, 1980. Further settlement discussions with Commission Staff necessitate another informal conference.

Notice is hereby given that an informal conference on the above matter will be held at 10:00 a.m. on July 29, 1980, at a room to be designated that day at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. All interested persons are invited to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21410 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Dockets Nos. CI62-365, et al.]

Conoco, Inc., et al.; Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

July 10, 1980.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said applications should on or before July 18, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI62-365, C, Nov. 1, 1965 ..	Conoco, Inc.,[1] P.O. Box 2197, Houston, Texas 77001.	El Paso Natural Gas Company, Lindrith Area, Rio Arriba County, New Mexico.	(2)	14.65
CI62-965, A, Feb. 26, 1963.	Gulf Oil Corporation, P.O. Box 2100, Houston, Texas 77001.	United Gas Pipe Line Company, Garden City Field, St. Mary Parish, Louisiana.	(3)	15.025
CI76-688, C, June 23, 1980	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	Tennessee Gas Pipeline Company, LQ Sand in Grand Isle Block 48 (West Half), Offshore Louisiana.	(4)	15.025
CI77-48, C, July 7, 1980.....	Exxon Corporation, P.O. Box 2180, Houston, Texas 77001.	Natural Gas Pipeline Company of America, Eugene Island Block 332 Field, Offshore Louisiana.	(5)	15.025
CI78-1194, May 22, 19804..	Mobil Oil Exploration & Producing Southeast, Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Sea Robin Pipeline Company, Eugene Island Blocks 261 and 262, Offshore Louisiana.	4(7)	15.025
CI79-55, C, Nov. 27, 1978 ..	Sun Oil Company, P.O. Box 20, Dallas, Texas 75221.	El Paso Natural Gas Company, Deck Field, Sterling County, Texas.	4(8)	14.65

[1] Formerly Continental Oil Company.
[2] Applicant is filing to amend its Contract under Amendment dated 10-11-65 and FERC GRS No. 208.
[3] Applicant is filing under Agreement dated 8-10-62, Letter dated 2-4-63 and FERC GRS No. 235.
[4] Applicant is filing under Contract dated 6-7-76, amended by Amendatory agreement dated 6-4-80.
[5] Applicant is willing to accept a permanent Certificate of Public Convenience and Necessity covering the subject sale conditioned in accordance with the NGPA of 1978 and the Commission's Regulations under said Act.
[6] Being notice to reflect a change in buyer.
[7] Effective 10-13-78, Date of transfer of rights.
[8] Applicant is filing under Residue Gas Purchase Agreement dated 7-15-78, amended by Amendment dated 11-6-78.

Filing Code: A-Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 80-21411 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-61]

Consolidated Gas Supply Corp.; Notice of Proposed Changes in FERC Gas Tariff

July 10, 1980.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on June 30, 1980, tendered for filing Twenty-First Revised Sheet No. 16 to its FERC Gas Tariff, Third Revised Volume No. 1. The tariff sheet is proposed to become effective, subject to refund, on July 1, 1980.

Consolidated states that Twenty-First Revised Sheet No. 16 is filed to comply with the Commission's order of January 30, 1980, Ordering Paragraph (D), which required Consolidated to file revised tariff sheets by June 30, 1980 reflecting the elimination of costs associated with facilities not in service and the balance in Account 166 as of that date.

Copies of this filing were served upon Consolidated's jurisdictional customers, as well as interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before July 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21412 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Vol.: 235]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued July 8, 1980.

The Federal Energy Regulatory Commission received notices of determination from the jurisdictional agencies listed herein, for the indicated wells, pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a (D) in the DEN column. Estimated annual production is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this notice in the Federal Register.

Please reference the FERC Control Number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

BILLING CODE 6450-85-M

FERC NO	JA DKT NO	API NO	SECT	DEN	WELL NAME	PROD	PURCHASER
ALABAMA STATE OIL & GAS BOARD							
CHARLES L CHERRY & ASSOCIATES					RECEIVED: 06/18/80 JA: AL		
8041464	6-11-804PDA	0105720181	102		PORTER NO 18-1	427.0	WARRIOR DRILLING & ENGINEERING CO
HUGHES & HUGHES					RECEIVED: 06/18/80 JA: AL		
8041462	6-11-802PD	0107520231	102		SIZEMORE 21-4 NO 1	236.0	
PRUET PRODUCTION CO					RECEIVED: 06/18/80 JA: AL		
8041463	6-11-803PD	0107520229	102		A B CHANDLER 11-1 NO 1	285.0	TENNESSEE GAS PIPELINE CO
UNION OIL COMPANY OF CALIF					RECEIVED: 06/18/80 JA: AL		
8041461	6-11-801PD-A	0109720124	107		R J NEWMAN ET AL 9-11 NO 1	35.0	UNITED GAS PIPE LINE CO
MICHIGAN DEPARTMENT OF NATURAL RESOURCES							
AMOCO PRODUCTION CO					RECEIVED: 06/19/80 JA: MI		
8041533		2114131657	102		BERG-BREGE UNIT 1-21	25.0	MICHIGAN CONSOLIDATED GAS CO
8041535		2113732008	103		GERALDINE 3-35	100.0	CONSUMERS POWER CO
8041534		2114131787	102		LAMB 1-10	1100.0	MICHIGAN CONSOLIDATED GAS CO
8041540		2105532273	103		ST WHITEWATER H 4-22	475.0	CONSUMERS POWER CO
8041536		2107931749	103		STATE BLUE LAKE E 3-18	130.0	CONSUMERS POWER CO
8041537		2107931517	103		STATE BLUE LAKE G 2-17	110.0	CONSUMERS POWER CO
8041538		2107932316	103		STATE BLUE LAKE G 4-17	110.0	CONSUMERS POWER CO
8041539		2103932602	103		STATE FREDERIC 3-20	1100.0	CONSUMERS POWER CO
NORTHERN MICHIGAN EXPLORATION CO					RECEIVED: 06/19/80 JA: MI		
8041525		2110132701	102		CHARLES SKULINA - STATE-CLEON #2-20	720.0	CONSUMERS POWER CO
8041524		2110133450	102		DON AND MARY REBMAN ET AL #3-16A	1095.0	CONSUMERS POWER CO
8041527		2105533012	102		MELVIN WEDOW ET AL STATE-BLAIR #1-28	37.0	CONSUMERS POWER CO
8041526		2105533132	102		STATE-BLAIR #1-14	165.0	CONSUMERS POWER CO
PETROTECH INC					RECEIVED: 06/19/80 JA: MI		
8041532		2114700000	102		DETROIT EDISON CO #1-13	0.0	SOUTHEASTERN MICHIGAN GAS CO
RAYMOND E GEORGE					RECEIVED: 06/19/80 JA: MI		
*8041521		2113700000	102		STYLES-STATE OTSEGO LAKE 2-11	108.0	CONSUMERS POWER CO
SUN OIL COMPANY (DELAWARE)					RECEIVED: 06/19/80 JA: MI		
8041528		2114333340	103		ENTERPRISE UNIT NO 11-3	18.0	DOW CHEMICAL CO
8041531		2114300000	103		ST HELEN UNIT TRACT 15 #35	3.0	DOW CHEMICAL CO
8041530		2114300000	103		ST HELEN UNIT TRACT 15 NO 34	2.0	DOW CHEMICAL CO
8041529		2114300000	103		ST HELEN UNIT TRACT 2 NO 19	3.0	DOW CHEMICAL CO
TOTAL PETROLEUM INC					RECEIVED: 06/19/80 JA: MI		

* ADDITIONAL PURCHASERS(SEE END OF LIST)

FERC NO	JA DKT NO	API NO	SECT	DEN	WELL NAME	PROD	PURCHASER
8041522		2105532640	103		ROTARY CAMPS INC 2-11	113.5	CONSUMERS POWER CO
8041523		2105533192	102		STATE EAST BAY 1-14	160.0	CONSUMERS POWER CO
BOUNTY OIL & GAS INC					RECEIVED: 06/18/80 JA: NY		
8041468	801	3101312944	102		SIMMENTAL RANCHES INC #1	15.0	COLUMBIA GAS TRANSMISSION CORP
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION							
ENVIROGAS INC					RECEIVED: 06/18/80 JA: NY		
8041465	807	3101314292	102		B EWER #1	18.0	NATIONAL FUEL GAS SUPPLY CORP
8041466	806	3101313916	102		J SULLIVAN #1	18.0	NATIONAL FUEL GAS SUPPLY CORP
8041467	805	3101314367	102		J WALSH #1	18.0	NATIONAL FUEL GAS SUPPLY CORP
FLINT OIL & GAS INC					RECEIVED: 06/18/80 JA: NY		
8041483	663	3102910361	108		(1122) FLINT FEE #1	4.0	NATIONAL FUEL GAS SUPPLY CORP
8041493	640	3100910994	108		(1157) NANNEN-ZOAR VALLEY #1	8.2	NATIONAL FUEL GAS SUPPLY CORP
8041492	641	3100911045	108		(1158) NANNEN-ZOAR VALLEY #2	9.4	NATIONAL FUEL GAS SUPPLY CORP
8041491	642	3100911049	108		(1159) NANNEN ZOAR VALLEY #3	5.2	NATIONAL FUEL GAS SUPPLY CORP
8041490	643	3100911048	108		(1160) NANNEN-ZOAR VALLEY #4	10.4	NATIONAL FUEL GAS SUPPLY CORP
8041489	644	3100911706	108		(1161) NANNEN-ZOAR VALLEY #5	9.3	NATIONAL FUEL GAS SUPPLY CORP
8041488	645	3100912459	108		(1162) FARNER ZOAR VALLEY #1	8.8	NATIONAL FUEL GAS SUPPLY CORP
8041487	646	3100912460	108		(1164) DARLING ZOAR VALLEY #1	18.8	NATIONAL FUEL GAS SUPPLY CORP
8041486	659	3102911002	108		(1181) BROWN #1	11.6	NATIONAL FUEL GAS SUPPLY CORP
8041485	660	3102904530	108		(1218) S LASCALA #1	8.5	NATIONAL FUEL GAS SUPPLY CORP
8041484	661	3102904440	108		(1244) S LASCALA #2	6.8	NATIONAL FUEL GAS SUPPLY CORP
8041482	559	3101311627	108		(1247) MANCUSO & CATANIA #1	3.6	NATIONAL FUEL GAS SUPPLY CORP
8041481	560	3101312131	108		(1248) FURVER UNIT #1	6.3	NATIONAL FUEL GAS SUPPLY CORP
8041480	561	3101312132	108		(1249) F & J DUNN #1	10.5	NATIONAL FUEL GAS SUPPLY CORP
8041479	562	3101311641	108		(1250) E MAJKA #1	8.0	NATIONAL FUEL GAS SUPPLY CORP
8041478	563	3101312133	108		(1252) SZYMCZOK UNIT #1	10.4	NATIONAL FUEL GAS SUPPLY CORP
8041477	564	3101312134	108		(1258) MARVIN UNIT #1	4.3	NATIONAL FUEL GAS SUPPLY CORP
8041476	565	3101311678	108		(1254) CARL AND NANCY JOY UNIT #1	19.3	NATIONAL FUEL GAS SUPPLY CORP
8041475	566	3101311679	108		(1260) EZIO AND MARY FABRO #1	19.2	NATIONAL FUEL GAS SUPPLY CORP
8041474	567	3101311680	108		(1261) L GRANT UNIT #1	15.6	NATIONAL FUEL GAS SUPPLY CORP
8041473	568	3101311981	108		(1266) W SLY #1	19.2	NATIONAL FUEL GAS SUPPLY CORP
8041472	569	3101311800	108		(1267) PREISS UNIT #1	16.4	NATIONAL FUEL GAS SUPPLY CORP
8041471	570	3101311801	108		(1268) STELMACH #1	16.5	NATIONAL FUEL GAS SUPPLY CORP
8041470	571	3101311802	108		(1269) BRILL UNIT #1	10.0	NATIONAL FUEL GAS SUPPLY CORP
8041469	572	3101311685	108		(1272) DAVID & IVA MATTOUN #1	14.6	NATIONAL FUEL GAS SUPPLY CORP
8041510	594	3101312098	108		(1313) R BRADIGAN UNIT #1	6.5	NATIONAL FUEL GAS SUPPLY CORP
8041509	595	3101312099	108		(1314) R RIDER UNIT #1	2.7	NATIONAL FUEL GAS SUPPLY CORP
8041508	596	3101312100	108		(1315) R CROWELL UNIT #1	3.8	NATIONAL FUEL GAS SUPPLY CORP
8041507	597	3101312101	108		(1316) L J KAHABKA UNIT #1	11.7	NATIONAL FUEL GAS SUPPLY CORP
8041506	598	3101312102	108		(1317) WICK #1	8.8	NATIONAL FUEL GAS SUPPLY CORP
8041505	599	3101312103	108		(1318) WATERMAN UNIT #1	4.3	NATIONAL FUEL GAS SUPPLY CORP
8041503	601	3101312105	108		(1320) WATERMAN UNIT #3	1.7	NATIONAL FUEL GAS SUPPLY CORP
8041504	600	3101312106	108		(1321) WATERMAN UNIT #4	13.0	NATIONAL FUEL GAS SUPPLY CORP
8041502	602	3101312167	108		(1334) SHOREWOOD UNIT #1	19.4	NATIONAL FUEL GAS SUPPLY CORP
8041501	603	3101312168	108		(1335) SHOREWOOD UNIT #2	16.5	NATIONAL FUEL GAS SUPPLY CORP
8041520	605	3101312171	108		(1338) GIBSON ESTATE #1	16.7	NATIONAL FUEL GAS SUPPLY CORP
8041519	606	3101312174	108		(1341) FOREMAN UNIT #1	21.2	NATIONAL FUEL GAS SUPPLY CORP
8041518	607	3101312188	108		(1343) N MCCOY #1	2.9	NATIONAL FUEL GAS SUPPLY CORP
8041517	608	3101312186	108		(1344) MCCOY ESTATE #1	9.3	NATIONAL FUEL GAS SUPPLY CORP

* ADDITIONAL PURCHASERS(SEE END OF LIST)

FERC NO	JA DKT NO	API NO	SECT	DEN	WELL NAME	PROD	PURCHASER
8041516	609	3101312219	108		(1346) SNYDER UNIT #1	9,5	NATIONAL FUEL GAS SUPPLY CORP
8041515	610	3101312189	108		(1347) SAGER UNIT #1	6,2	NATIONAL FUEL GAS SUPPLY CORP
8041514	611	3101312259	108		(1348) WATROUS UNIT #1	6,2	NATIONAL FUEL GAS SUPPLY CORP
8041513	612	3101312413	108		(1349) G & M DORMAN #2	14,5	NATIONAL FUEL GAS SUPPLY CORP
8041512	613	3101312258	108		(1350) SUGG #1	6,4	NATIONAL FUEL GAS SUPPLY CORP
8041511	614	3101312220	108		(1351) HUNARD #1	3,6	NATIONAL FUEL GAS SUPPLY CORP
8041500	615	3101312191	108		(1352) EDWARDS UNIT #1	6,6	NATIONAL FUEL GAS SUPPLY CORP
8041499	616	3101312264	108		(1353) BLAKELEY #1	0,7	NATIONAL FUEL GAS SUPPLY CORP
8041498	617	3101312268	108		(1354) CHRISTIAN #1	9,1	NATIONAL FUEL GAS SUPPLY CORP
8041496	619	3101312414	108		(1358) E WISE #1	10,5	NATIONAL FUEL GAS SUPPLY CORP
8041497	618	3101312213	108		(1359) CAPPELLINO #1	6,6	NATIONAL FUEL GAS SUPPLY CORP
8041495	620	3101312216	108		(1362) A LEONE #1	19,4	NATIONAL FUEL GAS SUPPLY CORP
8041494	621	3101312266	108		(1365) E HAYES #1	7,9	NATIONAL FUEL GAS SUPPLY CORP

U. S. GEOLOGICAL SURVEY; METAIRIE,LA.

AMINOIL DEVELOPMENT INC				RECEIVED: 06/19/80 JA: TX 3			
*8041574	GO-1365	4271140449	102	OCS-G-2412 WELL NO A-17		2190,0	NATURAL GAS PIPELINE CO OF AMERICA
CNG PRODUCING COMPANY				RECEIVED: 06/19/80 JA: LA 3			
8041547	GO-1375	1771240220	102	D-2091		584,0	COLUMBIA GAS TRANSMISSION CORP
8041543	GO-1376	1771240220	102	D-2092 (ALT)		584,0	COLUMBIA GAS TRANSMISSION CORP
8041560	GO-1377	1771240220	102	D-2093 (ALT)		584,0	COLUMBIA GAS TRANSMISSION CORP
CONOCO,INC				RECEIVED: 06/19/80 JA: LA 3			
*8041565	GO-1367	1770540351	102	VERMILION 242 A-2		1200,0	MICHIGAN WISCONSIN PIPE LINE CO
EXXON CORPORATION				RECEIVED: 06/19/80 JA: LA 3			
8041576	G-1205	1771540161	102	OCS-028 F-2		407,0	TENNESSEE GAS PIPELINE CO
GULF OIL CORPORATION				RECEIVED: 06/19/80 JA: LA 3			
8041559	G9-1117	1771540272	102	OCS G-2624 WELL NO B-8		1000,0	TEXAS EASTERN TRANSMISSION CORP
8041552	G9-1107	1771540253	102	OCS G-3336 WELL NO D-5		1680,0	TEXAS EASTERN TRANSMISSION CORP
8041548	G9-1116	1771540275	102	OCS G-3336 WELL NO D-7		365,0	TEXAS EASTERN TRANSMISSION CORP
8041551	G9-1114	1771540278	102	OCS-G-3336 WELL NO E-6		1278,0	TEXAS EASTERN TRANSMISSION CORP
8041546	G9-1113	1771540278	102	OCS-G-3336 WELL NO E-6D		500,0	TEXAS EASTERN TRANSMISSION CORP
8041542	GO-1293	1771540229	102	OCS G-3336 #D-4		500.0	TEXAS EASTERN TRANSMISSION CORP
MARATHON OIL COMPANY				RECEIVED: 06/19/80 JA: LA 3			
*8041562	GO-1374	1770640397	102	VERMILION BLOCK 331 WELL A-18		200,0	TEXAS EASTERN TRANSMISSION CORP
MCMORAN OFFSHORE EXPLORATION CO				RECEIVED: 06/19/80 JA: LA 3			
8041575	GO-1380	1770540397	102	OCS-G-4102 #1		0,0	TRANSCONTINENTAL GAS PIPELINE CO
MOBIL OIL EXPLORATION & PROD S E				RECEIVED: 06/19/80 JA: LA 3			
*8041554	GO-1368	1770940352	102	EUGENE ISLAND BLOCK 39 #1A		3066,0	MICHIGAN WISCONSIN PIPE LINE CO
*8041578	GO-1369	1770940352	102	EUGENE ISLAND BLOCK 39 #1B		3066,0	MICHIGAN WISCONSIN PIPE LINE CO
*8041550	GO-1370	1770940366	102	EUGENE ISLAND BLOCK 39 #2A		3066,0	MICHIGAN WISCONSIN PIPE LINE CO

* ADDITIONAL PURCHASERS(SEE END OF LIST)

FERC NO	JA DKT NO	API NO	SECT	DEN	WELL NAME	PROD	PURCHASER
OCEAN PRODUCTION CO					RECEIVED: 06/19/80 JA: LA S		
8041567	GU=1236	1771140472	102		OCS=G 1023 E=2A	850,0	TRANSCONTINENTAL GAS PIPELINE CORP
OXY PETROLEUM INC					RECEIVED: 06/19/80 JA: LA S		
*8041579	GU=1248	1771040662	102		A=6	425,0	COLUMBIA GAS TRANSMISSION CORP
THE SUPERIOR OIL COMPANY					RECEIVED: 06/19/80 JA: LA S		
8041568	GU=1252	1770440323	102		OCS=0244 NO 20	1243,0	MICHIGAN=WISCONSIN PIPELINE CO
UNION OIL COMPANY OF CALIF					RECEIVED: 06/19/80 JA: LA S		
8041571	GU=1371	1770540325	107		OCS=0297 NO 32	7300,0	TRUNKLINE GAS CO
AMINOIL DEVELOPMENT INC					RECEIVED: 06/19/80 JA: TX S		
*8041549	GU=1361	4271140439	102		OCS=G=2412 WELL NO A=15	2190,0	NATURAL GAS PIPELINE CO OF AMERICA
*8041570	GU=1210	4271140209	102		OCS=G=2421 WELL A=11D	3500,0	NATURAL GAS PIPELINE CO OF AMERICA
EXXON CORPORATION					RECEIVED: 06/19/80 JA: TX S		
8041544	GU=1362	4271140431	102		OCS=G 3313 NO A=3	5000,0	COLUMBIA GAS TRANSMISSION CORP
OXY PETROLEUM INC					RECEIVED: 06/19/80 JA: TX S		
8041558	GU=1256	4270640040	102		A=11D	605,0	NORTHERN NATURAL GAS CO
8041564	GU=1257	4270640043	102		A=14	605,0	NORTHERN NATURAL GAS CO
8041545	GU=1253	4270640036	102		A=4	605,0	NORTHERN NATURAL GAS CO
8041557	GU=1254	4270640037	102		A=8	605,0	NORTHERN NATURAL GAS CO
8041555	GU=1255	4270640041	102		A=9	605,0	NORTHERN NATURAL GAS CO
8041553	GU=1259	4270640039	102		B=13	605,0	NORTHERN NATURAL GAS CO
PENNZOIL OIL & GAS INC					RECEIVED: 06/19/80 JA: TX S		
*8041577	GU=1340	4270940277	102		PENNZOIL CO OCS=G 2366 A=7	71,0	UNITED GAS PIPE LINE CO
*8041569	GU=1323	4270940246	102		PENNZOIL CO OCS=G 2372 B-5	59,0	UNITED GAS PIPE LINE CO
*8041566	GU=1336	4270940425	102		PENNZOIL CO OCS=G 2372 #B=27	4745,0	UNITED GAS PIPE LINE CO
*8041563	GU=1331	4270940288	102		PENNZOIL CO OCS=G 2372 B=10 SIDETRACK	2326,0	UNITED GAS PIPE LINE CO
*8041556	GU=1332	4270940314	102		PENNZOIL CO OCS=G 2372 B=12	194,0	UNITED GAS PIPE LINE CO
*8041541	GU=1324	4270940276	102		PENNZOIL CO OCS=G 2372 B=7	2373,0	UNITED GAS PIPE LINE CO
PENNZOIL PRODUCING COMPANY					RECEIVED: 06/19/80 JA: TX S		
*8041573	GU=1347	4270940361	102		PENNZOIL CO OCS=G 2366 A=13	106,0	UNITED GAS PIPE LINE CO
*8041572	GU=1333	4270940286	102		PENNZOIL CO OCS=G 2372 B=13	81,0	UNITED GAS PIPE LINE CO
*8041561	GU=1319	4270940210	102		PENNZOIL CO OCS=G 2372 B=2	95,0	UNITED GAS PIPE LINE CO
U. S. GEOLOGICAL SURVEY: ALBUQUERQUE,N.M.							
ARCO OIL AND GAS COMPANY					RECEIVED: 06/19/80 JA: CO 4		
8041583	CUA=0227=80A	0506762380	103		SOUTHERN UTE 11=4 32=9 MV	194,0	NORTHWEST PIPELINE CORP
8041584	CUA=0227=80B	0506762380	103		SOUTHERN UTE 11=4 32=9 PC	205,0	NORTHWEST PIPELINE CORP
8041582	CUA=0177=80	0506706251	103		SOUTHERN UTE 12=5 32=8	90,0	WESTERN SLOPE GAS CO
						* ADDITIONAL PURCHASERS(SEE END OF LIST)	

FERC NO	JA DKT NO	API NO	SECT	DEN	WELL NAME	PROD	PURCHASER
ALPHA TWENTY-ONE PRODUCTION CO					RECEIVED: 06/20/80 JA: NM 4		
8041638	NM-0244-80	3002526483	103		EL PASO JUSTIS FEDERAL NO 1	182.0	EL PASO NATURAL GAS CO
AMOCO PRODUCTION CO					RECEIVED: 06/19/80 JA: NM 4		
8041600	NM-0230-80	3004507040	108		GALLEGOS CANYON UNIT #159	17.0	EL PASO NATURAL GAS CO
8041601	NM-0228-80	3003922087	103		JICARILLA GAS COM B #1E	50.0	NORTHWEST PIPELINE CORP
AMOCO PRODUCTION CO					RECEIVED: 06/20/80 JA: NM 4		
8041647	NM-0284-80	3002526455	103		MYERS B FEDERAL #29	3.7	EL PASO NATURAL GAS CO
ARCO OIL AND GAS COMPANY					RECEIVED: 06/19/80 JA: NM 4		
8041581	NM-0178-80B	3003927160	103		JICARILLA #114 (DK)	60.0	EL PASO NATURAL GAS CO
8041580	NM-0178-80A	3003927160	103		JICARILLA #114 (GALLUP)	60.0	EL PASO NATURAL GAS CO
BRUCE ANDERSON					RECEIVED: 06/20/80 JA: NM 4		
8041619	NM-0294-80	3004523620	103		FEDERAL #3	75.0	EL PASO NATURAL GAS CO
CONOCO, INC					RECEIVED: 06/19/80 JA: NM 4		
8041605	NM-1913-79	3001521232	108		SEMU - TUBB #87	1.3	WARREN PETROLEUM CO
CONOCO, INC					RECEIVED: 06/20/80 JA: NM 4		
8041636	NM-0247-80	3002526413	103		MEYER B-31 A NO 5	34.5	PHILLIPS PETROLEUM CO
COQUINA OIL CORPORATION					RECEIVED: 06/20/80 JA: NM 4		
8041639	NM-4499-79	3001521069	108		ARCO FEDERAL #1	25.0	NATURAL GAS PIPELINE CO
COTTON PETROLEUM CORPORATION					RECEIVED: 06/20/80 JA: NM 4		
8041628	NM-0064-80	3001522982	103		FEDERAL 11 #1	0.0	TRANSWESTERN PIPELINE CO
DUGAN PRODUCTION CORP					RECEIVED: 06/19/80 JA: NM 4		
8041609	NM-4326-79	3004522763	103		BIG FIELD #1	15.0	EL PASO NATURAL GAS CO
8041596	NM-0234-80	3004523616	103		CARPENTER #1E	0.0	NORTHWEST PIPELINE CORP
DUGAN PRODUCTION CORP					RECEIVED: 06/20/80 JA: NM 4		
8041640	NM-4599-79	3004523503	103		RED MAC #2R	45.0	EL PASO NATURAL GAS CO
E L FUNDINGSLAND					RECEIVED: 06/20/80 JA: CO 4		
8041630	NM-0285-80	0506763000	103		GAINES UTE #3	150.0	NORTHWEST PIPELINE CORP
EL PASO NATURAL GAS COMPANY					RECEIVED: 06/19/80 JA: NM 4		
*8041586	NM-0270-80	3004511743	108		HUERFANO UNIT #149	8.0	EL PASO NATURAL GAS CO
*8041585	NM-0271-80	3004560020	108		HUERFANO UNIT #155	15.0	EL PASO NATURAL GAS CO
8041587	NM-0267-80	3004521412	108		HUERFANO UNIT NP #255	7.0	EL PASO NATURAL GAS CO
EL PASO NATURAL GAS COMPANY					RECEIVED: 06/20/80 JA: NM 4		
8041615	NM-0287-80	3004523712	103		HEATON #1A	160.0	EL PASO NATURAL GAS CO
8041613	NM-0263-80	3004522883	108		MORTON #2	19.7	EL PASO NATURAL GAS CO
						* ADDITIONAL PURCHASERS(SEE END OF LIST)	

FERC NO	JA DKT NO	API NO	SECT	DEN	WELL NAME	PROD	PURCHASER
*8041614	NM-286-80	30045214?0	103		HUERFANO UNIT COM #91	70.0	EL PASO NATURAL GAS CO
*8041612	NM-0264-80	3003906416	108		JICARILLA J #4	22.6	EL PASO NATURAL GAS CO
8041633	NM-0001-80	3003906244	108		KLEIN #7 CH & PC	20.0	EL PASO NATURAL GAS CO
8041623	NM-0256-80	3004507288	108		LACKEY B #7	19.0	EL PASO NATURAL GAS CO
8041625	NM-0258-80	3004521090	108		ROELOFS A #6	19.0	EL PASO NATURAL GAS CO
8041621	NM-0253-80	3003906939	108		SAN JUAN 27-4 UNIT #29	15.0	EL PASO NATURAL GAS CO
8041616	NM-0290-80	3003920724	108		SAN JUAN 27-4 UNIT #71	21.5	EL PASO NATURAL GAS CO
8041624	NM-0257-80	3003907328	108		SAN JUAN 28-6 UNIT #35	16.0	EL PASO NATURAL GAS CO
8041627	NM-4411-79	3003907268	108		SAN JUAN 28-6 UNIT #41	20.0	EL PASO NATURAL GAS CO
8041626	NM-0262-80	3003906999	108		SAN JUAN 28-7 UNIT #119	20.8	EL PASO NATURAL GAS CO
8041622	NM-0255-80	3004506766	108		SCHWERDTFEGER A #4	15.7	EL PASO NATURAL GAS CO
FLUID POWER PUMP CO				RECEIVED: 06/19/80 JA: NM 4			
8041606	NM-3529-79	3003900000	108		REYNOLDS KILLARNEY #1	8.0	EL PASO NATURAL GAS CO
GETTY OIL COMPANY				RECEIVED: 06/19/80 JA: NM 4			
8041598	NM-0232-80	3003905866	108		JICARILLA C NO 17	21.7	EL PASO NATURAL GAS CO
8041597	NM-0233-80	3003905826	108		JICARILLA C NO 24	20.8	EL PASO NATURAL GAS CO
8041599	NM-0231-80	3004506482	108		MARSHALL-GENTLE NO 1	21.2	EL PASO NATURAL GAS CO
8041593	NM-0238-80	3004570297	103		P L DAVIS NO 1-E	60.0	EL PASO NATURAL GAS CO
GETTY OIL COMPANY				RECEIVED: 06/20/80 JA: NM 4			
8041643	NM-0242-80	3004523628	103		JOHN CHARLES NO 6	24.0	EL PASO NATURAL GAS CO
8041642	NM-0241-80	3004523629	103		MARSHALL A NO 7	24.0	EL PASO NATURAL GAS CO
8041644	NM-0243-80	3004523676	103		MEXICO-FEDERAL K #1-E	200.0	EL PASO NATURAL GAS CO
8041632	NM-0239-80	3004523627	103		NELLIE PLATERO NO 6	24.0	EL PASO NATURAL GAS CO
8041631	NM-0240-80	3004523625	103		P L DAVIS NO 2-E	60.0	EL PASO NATURAL GAS CO
HNG OIL COMPANY				RECEIVED: 06/20/80 JA: NM 4			
8041610	NM-0250-80	3002526135	102103		WILSON 21 FEDERAL #5 NM23199	5.0	EL PASO NATURAL GAS CO
J MERRION & R L BAYLESS				RECEIVED: 06/19/80 JA: NM 4			
8041590	NM-0222-80	3004522113	103		CANYON LARGO UNIT #293	100.0	EL PASO NATURAL GAS CO
8041589	NM-0223-80	3004523593	103		CHACO LIMITED #2-J	30.0	EL PASO NATURAL GAS CO
8041591	NM-0221-80	3004523803	103		SOUTHLAND #6	100.0	EL PASO NATURAL GAS CO
J MERRION & R L BAYLESS				RECEIVED: 06/20/80 JA: NM 4			
8041617	NM-0292-80	3004523838	103		INEZ #1	15.0	EL PASO NATURAL GAS CO
JEROME P MCHUGH				RECEIVED: 06/19/80 JA: NM 4			
8041595	NM-0236-80	3003922157	103		JICARILLA #1E	378.0	NORTHWEST PIPELINE CORP
MGF OIL CORP				RECEIVED: 06/20/80 JA: NM 4			
8041629	NM-0155-80	3000560588	103		BIKAR-FEDERAL NO 1	307.9	EL PASO NATURAL GAS
MORUILCO INC				RECEIVED: 06/20/80 JA: NM 4			
8041618	NM-0293-80	3001522937	103		DUNCAN FEDERAL #1	300.0	PHILLIPS PETROLEUM CO

* ADDITIONAL PURCHASERS(SEE END OF LIST)

FERC NO	JA DKT NO	API NO	SECT	DEN	WELL NAME	PROD	PURCHASER
NORTHWEST PIPELINE CORPORATION				RECEIVED: 06/20/80 JA: NM 4			
8041641	NM-0164-80	3004523657	103		BLANCO #9 A	172,0	NORTHWEST PIPELINE CORP
ODESSA NATURAL CORPORATION				RECEIVED: 06/20/80 JA: NM 4			
8041634	NM-5071-79	3003921707	108		JICARILLA JV PC NO 104	0,0	EL PASO NATURAL GAS CO
8041635	NM-5070-79	3003921713	108		JICARILLA JV PC NO 109	0,0	EL PASO NATURAL GAS CO
PETROLEUM CONSULTANTS INC				RECEIVED: 06/19/80 JA: NM 4			
8041607	NM-5530-79	3003900000	108		5-30 GUFF	4,0	GAS CO OF NEW MEXICO
SOUTHERN UNION EXPLORATION COMPANY				RECEIVED: 06/20/80 JA: NM 4			
8041637	NM-0245-80	3004522788	103		TENNECO FEDERAL #1	18,0	WESTERN GAS INTERSTATE CO
SOUTHLAND ROYALTY CO				RECEIVED: 06/19/80 JA: NM 4			
8041588	NM-0225-80	3004508588	108		HILL #3	4,5	EL PASO NATURAL GAS CO
SOUTHLAND ROYALTY CO				RECEIVED: 06/20/80 JA: NM 4			
8041620	NM-0249-80	3004523759	103		DAVIS #8-E	85,0	SOUTHERN UNION GATHERING CO
SUPRON ENERGY CORPORATION				RECEIVED: 06/19/80 JA: NM 4			
8041603	NM-0274-80	3004507942	108		ALBRIGHT #3	10,3	GAS CO OF NEW MEXICO
8041604	NM-0272-80	3004508000	108		ALBRIGHT #5	8,7	GAS CO OF NEW MEXICO
8041602	NM-0273-80	3004509236	108		ALBRIGHT 1-A	7,4	SOUTHERN UNION GATHERING CO
SUPRON ENERGY CORPORATION				RECEIVED: 06/20/80 JA: NM 4			
8041645	NM-0277-80	3004508210	108		ALBRIGHT #1	11,2	SOUTHERN UNION GATHERING CO
TENNECO OIL COMPANY				RECEIVED: 06/19/80 JA: NM 4			
8041592	NM-180-80	3004523796	103		DELHI-TAYLOR PUD #1-E	500,0	EL PASO NATURAL GAS CO
8041594	NM-0237-80	3004523435	103		HUBBARD A #1	500,0	EL PASO NATURAL GAS CO
WALLEN PRODUCTION CO				RECEIVED: 06/19/80 JA: NM 4			
8041608	NM-3999-79	3002525904	103		WALLEN BASS #3	21,9	PHILLIPS PETROLEUM CO
YATES PETROLEUM CORPORATION				RECEIVED: 06/20/80 JA: NM 4			
8041611	NM-280-80	3001560630	102		GODFREY MP FEDERAL #1	0,0	TRANSWESTERN PIPELINE CO
8041646	NM-218-80	3001523074	103		RIO PENASCO MF FEDERAL COM NO 1	0,0	TRANSWESTERN PIPELINE CO

* ADDITIONAL PURCHASERS(SEE END OF LIST)

OTHER PURCHASERS

8041521	MICHIGAN CONSOLIDATED GAS CO
8041541	MICHIGAN WISCONSIN PIPELINE CO
8041549	TRUNKLINE GAS CO
8041550	NORTHERN NATURAL GAS CO
8041554	NORTHERN NATURAL GAS CO
8041556	MICHIGAN WISCONSIN PIPELINE CO
8041561	MICHIGAN WISCONSIN PIPELINE CO
8041562	TRANSCONTINENTAL GAS PIPE LINE CORP
8041563	MICHIGAN WISCONSIN PIPELINE CO
8041565	UNITED GAS PIPELINE CO
8041566	MICHIGAN WISCONSIN PIPELING CO
8041569	MICHIGAN WISCONSIN PIPELINE CO
8041570	TRANSCONTINENTAL GAS PIPELINE CORP
8041572	MICHIGAN WISCONSIN PIPELINE CO
8041573	MICHIGAN WISCONSIN PIPELINE CO
8041574	TRUNKLING GAS CO
8041577	MICHIGAN WISCONSIN PIPELINE CO
8041578	NORTHERN NATURAL GAS CO
8041579	TENNESSEE GAS PIPELINE CO
8041585	NORTHWEST PIPELINE CORP
8041586	NORTHWEST PIPELINE CORP
8041612	NORTHWEST PIPELINE CORP
8041614	SOUTHERN UNION GATHERING CO

[FR Doc. 80-21407 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-C

[Volume 234]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued July 8, 1980.

The Federal Energy Regulatory Commission received notices of determination from the jurisdictional agencies listed herein, for the indicated wells, pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a (D) in the DEN column. Estimated annual production is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before August 4, 1980.

Please reference the FERC Control Number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

BILLING CODE 6450-85-M

FERC NO	JA DKT NO	API NO	SECT	DEN	WELL NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION							
AMERICAN PETROFINA COMPANY OF TEXAS					RECEIVED: 06/19/80 JA: TX		
8041282	13547	4210332036	103		J B TUBB A NO 190 (JUDKINS)	26,6	WARREN PETROLEUM CO
AMOCO PRODUCTION CO					RECEIVED: 06/19/80 JA: TX		
8041086	08064	4220330532	102		DEUTSCH GAS UNIT WELL NO 2	85,4	TEJAS GAS CORP
8041363	14696	4229500000	108		DRAPER UNIT #1	18,0	NORTHERN NATURAL GAS CO
8041263	13277	4220330570	103		FRANK THOMAS GAS UNIT NO 2	436,0	TEJAS GAS CORP
8041440	17098	4220330570	102		FRANK THOMAS GAS UNIT NO 2	436,0	TEJAS GAS CORP
8041284	13598	4203931283	103		H G WILLIAMS #14	303,0	TEXAS EASTERN TRANSMISSION CORP
8041252	12659	4220330577	102		KATHLEEN M RESCH B NO 1	197,5	UNITED GAS PIPELINE CO
*8041364	14697	4239300000	108		LIPS RANCH B #13	2,0	NORTHERN NATURAL GAS CO
*8041365	14698	4239300000	108		LIPS RANCH B #16	5,0	NORTHERN NATURAL GAS CO
*8041366	14699	4239300000	108		LIPS RANCH B #17	6,0	NORTHERN NATURAL GAS CO
8041184	11521	4220130858	102		MARSHALL BROTHERS TRUST NO 1	547,0	UNITED GAS PIPELINE CO
8041197	11766	4220330593	102		MCGEE GAS UNIT #2	436,0	EAST TEXAS INDUSTRIAL GAS CO
8041196	11765	4220330590	102		MILTON WOODS/DEEP/GAS UNIT #2	436,0	EAST TEXAS INDUSTRIAL GAS CO
8041297	13677	4213533120	103		W F CONDEN C UPPER B #56	1,2	PHILLIPS PETROLEUM CO
8041298	13678	4213533116	103		W F CONDEN C UPPER B #57	1,2	PHILLIPS PETROLEUM CO
8041299	13679	4213533115	103		W F CONDEN C UPPER D #59	1,2	PHILLIPS PETROLEUM CO
APACHE CORPORATION					RECEIVED: 06/19/80 JA: TX		
8041457	18178	4248330628	102		STILES #6-24	1825,0	ARKANSAS-LOUISIANA GAS CO
ARCO OIL AND GAS COMPANY					RECEIVED: 06/19/80 JA: TX		
8041253	12853	4200531824	103		EMMA CONDEN (24739) 59	750,0	EL PASO NATURAL GAS CO
8041306	13791	4221530873	103		SWALLOW GAS UNIT NO 4X	200,0	TENNESSEE GAS PIPELINE CO
ARKLA EXPLORATION COMPANY					RECEIVED: 06/19/80 JA: TX		
8041050	06325	4236530687	102		A L DAVIS #1	363,0	ARKANSAS LOUISIANA GAS CO
8041056	06426	4241930269	102		CRAWFORD #1-C	45,0	ARKANSAS LOUISIANA GAS CO
8041048	06298	4241930269	102		CRAWFORD #1-T	145,0	ARKANSAS LOUISIANA GAS CO
8041052	06327	4236530684	102		HEBERT #1	363,0	ARKANSAS LOUISIANA GAS CO
8041054	06350	4236530603	102		MASON #1	363,0	ARKANSAS LOUISIANA GAS CO
8041051	06326	4236530755	102		NELL HUDSON #1	363,0	ARKANSAS LOUISIANA GAS CO
8041049	06322	4241930174	103		VAN HUGHES #1-C	145,0	ARKANSAS LOUISIANA GAS CO
8041055	06409	4241930174	103		VAN HUGHES #1-T	91,0	ARKANSAS LOUISIANA GAS CO
8041053	06328	4236530733	102		WILLIE HUDSON #1	363,0	ARKANSAS LOUISIANA GAS CO
AUBREY C BLACK					RECEIVED: 06/19/80 JA: TX		
8041372	14870	4224931026	102		#1 CECIL CARLISLE ID #82847	360,0	TRUNKLINE GAS CO
B & W OIL & GAS					RECEIVED: 06/19/80 JA: TX		
8041293	13655	4206530691	103		MISTY LEASE NO 3	17,5	PANHANDLE EASTERN PIPE LINE
8041238	12202	4206530687	103		STACY LEASE #1	17,5	PANHANDLE EASTERN PIPE LINE CO
8041237	12201	4206530686	103		STACY LEASE #2	17,5	PANHANDLE EASTERN PIPE LINE CO
BELCO PETROLEUM CORPORATION					RECEIVED: 06/19/80 JA: TX		

* ADDITIONAL PURCHASERS(SEE END OF LIST)

FERC NO	JA DKT NO	API NO	SECT	DEN	WELL NAME	PROD	PURCHASER
8041185	11523	4223531337	102		ELA SUGG 1 07768 1	75.0	EL PASO NATURAL GAS CO
BLADE OIL CO					RECEIVED: 06/19/80 JA: TX		
8041103	09033	4223300000	103		SANFORD #1 04278	2.9	PHILLIPS PETROLEUM CO
8041104	09034	4223300000	103		SANFORD #2 04278	2.9	PHILLIPS PETROLEUM CO
BLAIR EXPLORATION INC					RECEIVED: 06/19/80 JA: TX		
8041445	17425	4230700000	102		JOHNNIE V GUICE NO 1	0.0	SIOUX NATURAL GAS CORP
8041446	17426	4230700000	102		JOHNNIE V GUICE NO 3	250.0	SIOUX NATURAL GAS CORP
BLAIR OIL COMPANY					RECEIVED: 06/19/80 JA: TX		
8041312	14079	4206530684	103		JACKIE LEASE NO 1	0.0	PANHANDLE EASTERN PIPE LINE
8041313	14080	4206530685	103		JACKIE LEASE NO 2	0.0	PANHANDLE EASTERN PIPE LINE
8041314	14081	4206530689	103		JACKIE LEASE NO 5	0.0	PANHANDLE EASTERN PIPE LINE
BRONCO OIL CO					RECEIVED: 06/19/80 JA: TX		
8041152	10737	4248300000	108		SITTER-HARREN #2 01430	8.4	WARREN PETROLEUM CO
8041154	10744	4248300000	108		W S WALKER #2 01407	4.2	WARREN PETROLEUM CO
8041153	10743	4248300000	108		W S WALKER #4 01407	4.2	WARREN PETROLEUM CO
CAMBRIDGE & NAIL					RECEIVED: 06/19/80 JA: TX		
8041447	17445	4221131108	102		IMMEL #1	240.0	PANHANDLE EASTERN PIPELINE CO
CAMPANA PETROLEUM CO					RECEIVED: 06/19/80 JA: TX		
8041265	13413	4222731699	103		READ NO 3	35.8	GETTY OIL CO
8041264	13412	4222731814	103		READ NO 7	43.8	GETTY OIL CO
CANUS PETROLEUM INC					RECEIVED: 06/19/80 JA: TX		
8041239	12207	4235531278	102		#1 STATE TRACT 691	365.0	UNITED GAS PIPELINE CO
CARTER ENERGY CORP					RECEIVED: 06/19/80 JA: TX		
8041186	11524	4223732284	102		CLAYTON HEIRS #1 81310	75.0	LONE STAR GAS CO
CARTER EXPLORATION CO					RECEIVED: 06/19/80 JA: TX		
8041449	17553	4223931371	102		A SBRUSCH NO 2	120.0	TRANSCONTINENTAL GAS PIPE LINE COR
8041450	17554	4223931321	102		KUBECKA ESTATE NO 1	120.0	TRANSCONTINENTAL GAS PIPE LINE COR
8041451	17555	4223931369	102		KUBECKA ESTATE NO 2	120.0	TRANSCONTINENTAL GAS PIPE LINE COR
CHAMPLIN PETROLEUM COMPANY					RECEIVED: 06/19/80 JA: TX		
8041453	17670	4217330966	102		B F DUDLEY NO 1	60.0	NORTHERN NATURALG AS CO
8041158	10749	4236500000	108		CARTHAGE GAS UNIT 14 #1-T	9.0	TENNESSEE GAS PIPELINE CO
8041072	07060	4236530291	103		CARTHAGE GAS UNIT 17 #3 71954	410.0	TENNESSEE GAS PIPELINE CO
8041157	10748	4236500000	108		CARTHAGE GAS UNIT 26 #1-C	9.0	TENNESSEE GAS PIPELINE CO
8041159	10750	4236500000	108		CARTHAGE GAS UNIT 3 NO 2	15.0	TENNESSEE GAS PIPELINE CO
* ADDITIONAL PURCHASERS(SEE END OF LIST)							

FERC NO	JA DKT NO	API NO	SECT	DEN	WELL NAME	PROD	PURCHASER
8041156	10747	4236500000	108		CARTHAGE GAS UNIT 30 #1-F	3,0	TENNESSEE GAS PIPELINE CO
*8041071	07040	4235531301	103		DRYDEN J W #6 78834	15,3	TENNESSEE GAS PIPELINE CO
8041155	10746	4235330733	103		L H BECKHAM #5	5,8	AMOCO
CLOVER ENERGY CORP				RECEIVED: 06/19/80 JA: TX			
8041442	17241	4203931225	102		CHAPMAN UNIT #1 (ID #11995)	365,0	LO-VACA GATHERING CO
8041305	13751	4220130912	102		WHELESS NO 1-C 12266	90,0	UNITED TEXAS TRANSMISSION CO
8041304	13750	4220130912	102		WHELESS NO 1-T 12266	90,0	UNITED TEXAS TRANSMISSION CO
CONOCO,INC				RECEIVED: 06/19/80 JA: TX			
8041119	10187	4216500000	108		A L WASSON 50-A NO 6 61075	1,6	SHELL OIL CO
8041116	10080	4238900000	108		FORD-GERALDINE UNIT NO 105 21021	0,3	EL PASO NATURAL GAS CO
8041124	10218	4238900000	108		FORD-GERALDINE UNIT NO 5 21021	2,9	EL PASO NATURAL GAS CO
8041117	10096	4238900000	108		FORD-GERALDINE UNIT NO 75 21021	0,3	EL PASO NATURAL GAS CO
8041125	10274	4222700000	108		H R CLAY A NO 21 02691	0,4	PHILLIPS PET CO
8041342	14294	4232531262	103		M M GARCIA-F NO 15 09295	14,6	TENNESSEE GAS PIPELINE CO
8041118	10173	4238300000	108		MERCHANT EST (05161) #2	0,4	EL PASO NATURAL GAS CO
8041121	10199	4230100000	108		S A LINK NO 4 19342	1,5	PHILLIPS PET CO
8041122	10200	4230100000	108		S A LINK NO 5 19342	4,4	PHILLIPS PETROLEUM CO
8041120	10195	4216500000	108		W H MOORE 45 NO 11 13789	0,4	SHELL OIL CO
8041123	10201	4216500000	108		W H MOORE 47 NO 3 19645	0,5	SHELL OIL CO
8041045	05862	4213530545	103		WEST FLOWERS UNIT (11787 #61	0,7	CITIES SERVICE CO
COQUINA OIL CORPORATION				RECEIVED: 06/19/80 JA: TX			
8041350	14317	4244300000	102		SHEFFIELD #1 #56654	350,0	INTRATEX GAS CO
CORPUS CHRISTI OIL AND GAS CO				RECEIVED: 06/19/80 JA: TX			
8041162	10802	4242731263	102		HIDALGO-WILLACY NO 1	0,0	
CUTTON PETROLEUM CORPORATION				RECEIVED: 06/19/80 JA: TX			
8041315	14119	4240130795	103		PRIOR NO 1	523,0	UNITED GAS PIPE LINE
8041266	13456	4235730778	103		REED NO 2	73,0	NORTHERN NATURAL GAS CO
CROWN CENTRAL PETROLEUM CORP				RECEIVED: 06/19/80 JA: TX			
8041301	13705	4241330779	103		R L HENDERSON NO 3	146,0	CRA INC
DANIEL OIL COMPANY				RECEIVED: 06/19/80 JA: TX			
8041375	15043	4215730972	102		NUTT #1L	750,0	TEXAS EASTERN TRANSMISSION CORP
8041376	15044	4215730972	102		NUTT #1U	750,0	TEXAS EASTERN TRANSMISSION CORP
DAVID A SCHLACHTER OIL & GAS				RECEIVED: 06/19/80 JA: TX			
8041022	04640	4213500000	108		PAUL MOSS WELL NO 1	0,3	PHILLIPS PETROLEUM CO
8041026	04661	4213500000	108		PAUL MOSS WELL NO 2	0,4	PHILLIPS PETROLEUM CO
8041023	04648	4213500000	108		PAUL MOSS WELL NO 20	0,3	PHILLIPS PETROLEUM CO
8041025	04659	4213500000	108		PAUL MOSS WELL NO 25	0,4	PHILLIPS PETROLEUM CO
8041024	04651	4213500000	108		PAUL MOSS WELL NO 31	0,4	PHILLIPS PETROLEUM CO

* ADDITIONAL PURCHASERS(SEE END OF LIST)

FERC NO	JA DKT NO	API NO	SECT	DEN	WELL NAME	PROD	PURCHASER
DELTA DRILLING CO					RECEIVED: 06/19/80 JA: TX		
8041454	17918	4220330623	102	103	BARTLETT-BAILEY #1	200,5	ARKANSAS-LOUISIANA GAS CO
8041458	18719	4236530726	102	103	F H MARKLEY #1	182,5	TEXAS GAS TRANSMISSION CORP
8041017	01855	4210500000	103		MEADOWS 1 4	258,0	NORTHERN NATURAL GAS CO
DETRA PRODUCING CO					RECEIVED: 06/19/80 JA: TX		
8041100	08689	4223300000	108		WHITTENBURG Y #4	6,0	PHILLIPS PETROLEUM CO
DIAMOND SHAMROCK CORPORATION					RECEIVED: 06/19/80 JA: TX		
8041294	13657	4235730896	103		DREW ELLIS ET AL TRUSTEE NO 2-668	100,0	NATURAL GAS PIPELINE CO OF AMERICA
8041295	13660	4221131029	103		MAE E YOKLEY ET AL E NO 2-112	50,0	NORTHERN NATURAL GAS CO
DINERO OIL CO					RECEIVED: 06/19/80 JA: TX		
8041062	06500	4229731740	103		MCCRAW-ANDERSON GAS UNIT #1	100,0	SEAGULL PIPELINE CORP
E T S ENTERPRISES INC					RECEIVED: 06/19/80 JA: TX		
8041245	12537	4221131070	102		C N BARKER NO 1	1800,0	EL PASO NATURAL GAS CO
EBEN D WARNER JR					RECEIVED: 06/19/80 JA: TX		
8041198	11773	4217900000	108		GETHINGS NO 1	10,4	COLTEXO CORP
ENRICH OIL CORPORATION					RECEIVED: 06/19/80 JA: TX		
8041443	17376	4235330766	102		CALLA MAE CARGILE #1	175,0	SUN GAS CO
EXXON CORPORATION					RECEIVED: 06/19/80 JA: TX		
8041353	14475	4226130458	103		C M ARMSTRONG 47-D 83093	183,0	NATURAL GAS PL CO OF AMERICA
8041261	13210	4226130239	103		J G KENEDY JR E-22-F 82505	290,0	NATURAL GAS PIPELINE CO OF AMERICA
8041362	14581	4204700000	108		KELSEY UNIT M 261-D 68320	8,0	TRUNKLINE GAS CO
8041018	01960	4229530579	103		MRS LUTIE M GEX #3	375,0	TRANSWESTERN PIPELINE CO
8041019	01962	4229530583	103		MRS LUTIE M GEX #4	375,0	TRANSWESTERN PIPELINE CO
F N HILLS					RECEIVED: 06/19/80 JA: TX		
8041199	11784	4217900000	108		EAKINS NO 6	8,0	PHILLIPS PETROLEUM CO
8041200	11787	4217900000	108		MARTHA SAILOR NO 1	3,3	PHILLIPS PETROLEUM CO
8041201	11788	4217900000	108		MARTHA SAILOR NO 2	3,3	PHILLIPS PETROLEUM CO
8041202	11789	4217900000	108		MARTHA SAILOR NO 3	3,5	PHILLIPS PETROLEUM CO
8041203	11790	4217900000	108		MARTHA SAILOR NO 4	3,3	PHILLIPS PETROLEUM CO
8041204	11791	4217900000	108		MARTHA SAILOR NO 6	3,3	PHILLIPS PETROLEUM CO
8041205	11792	4217900000	108		MARTHA SAILOR NO 7	3,5	PHILLIPS PETROLEUM CO
FISCHER PETROLEUM CORP					RECEIVED: 06/19/80 JA: TX		
8041082	07615	4242713146	108		BRUCK #3	10,8	TENNESSEE GAS PIPELINE CO

* ADDITIONAL PURCHASERS(SEE END OF LIST)

FERC NO	JA DKT NO	API NO	SECT	DEN	WELL NAME	PROD	PURCHASER
FISHER-WEBB INC					RECEIVED: 06/19/80 JA: TX		
8041240	12217	4225331093	103		HILL ESTATE NO 1	0.0	PALO DURO PIPELINE CO
8041241	12219	4233731154	103		STRAUS NO 1	100.0	TIPPERARY CORP
FOREST OIL CORPORATION					RECEIVED: 06/19/80 JA: TX		
8041456	17959	4247900000	102		VAQUILLAS RANCH STATE GAS UNIT NO 1	550.0	TRANSCONTINENTAL GAS PIPE LINE COR
FRANK CASS					RECEIVED: 06/19/80 JA: TX		
8041368	14800	4238300000	108		NUNN 4 RRC NO 06125	16.0	EL PASO NATURAL GAS CO
8041369	14801	4238300000	108		NUNN 44 RRC NO 06319	12.0	EL PASO NATURAL GAS CO
FRANKS PETROLEUM INC ETAL					RECEIVED: 06/19/80 JA: TX		
8041459	18805	4236530792	102		WIENER ESTATE ETAL NO 4	91.0	UNITED GAS PIPELINE CO
G C HERRMANN CO					RECEIVED: 06/19/80 JA: TX		
8041147	10534	4217900000	108		MCKINNEY WELL #14	3.1	GETTY OIL CO
G M K OIL CO INC					RECEIVED: 06/19/80 JA: TX		
8041163	10803	4216531543	102		RILEY 1-G	45.0	NORTHERN NATURAL GAS CO
8041164	10808	4216531544	102		RILEY 2-G	68.2	NORTHERN NATURAL GAS CO
GAS PRODUCING ENTERPRISES INC					RECEIVED: 06/19/80 JA: TX		
8041351	14472	4237530660	103		MASTERSUN 105R	73.0	COLORADO INTERSTATE GAS CO
8041296	13662	4237530655	103		MASTERSUN 83-4 RU	3.0	COLORADO INTERSTATE GAS CO
8041352	14473	4234130549	103		SNEED 9R	41.0	COLORADO INTERSTATE GAS CO
GETTY OIL COMPANY					RECEIVED: 06/19/80 JA: TX		
8041370	14830	4248330631	103		D E JOHNSON NO 25	0.4	PHILLIPS PETROLEUM CO
8041311	14014	4243330524	103		FLOWERS CANYON SAND UNIT #156	1.0	CITIES SERVICE CO
8041358	14543	4243330911	103		FLOWERS CANYON SAND UNIT #160	1.0	CITIES SERVICE CO
8041359	14544	4243330912	103		FLOWERS CANYON SAND UNIT #161	5.0	CITIES SERVICE CO
8041360	14545	4243330928	103		FLOWERS CANYON SAND UNIT #162	2.0	CITIES SERVICE CO
8041361	14546	4243330926	103		FLOWERS CANYON SAND UNIT #163	3.0	CITIES SERVICE CO
*8041358	14479	4210300000	103		N MCELROY UNIT NO 4113	18.0	PHILLIPS PETROLEUM CO
8041367	14709	4249531017	107		UNIVERSITY 31-21 NO 1	1.6	INTRATEX GAS CO
8041309	13951	4236500000	103		WHITFIELD UNIT NO 2	0.0	UNITED GAS PIPELINE CO
GIFFORD MITCHELL & WISENBAKER					RECEIVED: 06/19/80 JA: TX		
8041377	15058	4249530914	107		A G HILL NO 1-L	322.0	LONE STAR GAS CO
GRELLING INVESTMENTS					RECEIVED: 06/19/80 JA: TX		
8041107	09101	4250731012	102		ELAINE SAND OIL UNIT I NO 1 05772	65.0	LOVACA GATHERING CO
8041108	09102	4250730894	102		LAMANTIA ET AL NO 2-C 73340	108.0	LOVACA GATHERING CO
8041106	09099	4250730895	102		PUENTE ET AL NO 1-C 74312	62.0	LOVACA GATHERING CO

* ADDITIONAL PURCHASERS(SEE END OF LIST)

FERC NO	JA DKT NO	API NO	SECT	DEN	WELL NAME	PROD	PURCHASER
8041109	09103	4250730992	102		VESTRING ET AL NO 1-C 77718	165,0	LOVACA GATHERING CO
GUERNSEY PETROLEUM CORPORATION					RECEIVED: 06/19/80 JA: TX		
8041302	13708	4224931050	103		TROUT #1	120,0	UNITED GAS PIPELINE CO
GULF OIL CORPORATION					RECEIVED: 06/19/80 JA: TX		
8041079	07533	4239300000	108		C H CLARK L #2	6,0	NATURAL GAS PIPELINE CO OF AMERICA
8041234	12147	4221130971	103		FORGEY 94 #1-94	286,0	CITIES SERVICE GAS CO
8041248	12567	4247531841	103		HUTCHINGS STOCK ASSN NO 1031	82,0	CABOT CORP
*8041373	14957	4218130624	102		J L RICH NO 1	857,0	UNION TEXAS PETROLEUM CO
8041080	07536	4239300000	108		JOHN HAGGARD #17	8,0	NATURAL GAS PIPELINE CO OF AMERICA
8041081	07540	4239300000	108		JOHN HAGGARD #28	2,0	NATURAL GAS PIPELINE CO OF AMERICA
8041078	07531	4239300000	108		JOHN HAGGARD #4	14,0	NATURAL GAS PIPELINE CO OF AMERICA
8041287	13641	4243130752	103		MODENA LEWIS ET AL NO 1	42,0	PHILLIPS PETROLEUM CO
8041235	12149	4221131058	103		ORA MORRIS #3-92	307,0	CITIES SERVICE GAS CO
*8041343	14295	4236500000	103		STERRETT UNIT NO 2	350,0	ARKANSAS LOUISIANA GAS CO
8041160	10779	4237132336	103		U S M OIL COMPANY NO 2	6,4	
GUS EDWARDS CO					RECEIVED: 06/19/80 JA: TX		
8041300	13690	4204130392	102		S A HOWARD NO 1	100,0	PRODUCERS GAS CO
GUY A SWARTZ					RECEIVED: 06/19/80 JA: TX		
8041254	12856	4208130747	103		NO 1 HARRIS ESTATE	50,0	SUN OIL CO
H C FEDERER					RECEIVED: 06/19/80 JA: TX		
8041378	15060	4217900000	108		SKIDMORE NO 1	6,4	GETTY OIL CO
8041379	15061	4217900000	108		SKIDMORE NO 2	6,4	GETTY OIL CO
8041380	15062	4217900000	108		SKIDMORE NO 3	6,4	GETTY OIL CO
8041381	15063	4217900000	108		SKIDMORE NO 4	6,4	GETTY OIL CO
8041382	15064	4217900000	108		SKIDMORE NO 5	6,4	GETTY OIL CO
8041383	15065	4217900000	108		SKIDMORE NO 6	6,4	GETTY OIL CO
8041384	15066	4217900000	108		SKIDMORE NO 8	6,4	GETTY OIL CO
8041385	15067	4217900000	108		SKIDMORE NO 9	6,4	GETTY OIL CO
HARKINS & COMPANY					RECEIVED: 06/19/80 JA: TX		
8041436	16910	4202530459	102		J R CARPENTER NO 1	182,5	FERGUSON CROSSING PIPELINE CO
HILLIARD OIL & GAS INC					RECEIVED: 06/19/80 JA: TX		
8041307	13832	4235730861	103		BARBARA LIPS AA NO 1	100,0	
8041308	13833	4239330678	103		BARBARA LIPS AD NO 1	130,0	
8041355	14484	4218130593	103		MITCHELL-HALL NO 1	146,0	CHEVRON USA INC
HNG OIL COMPANY					RECEIVED: 06/19/80 JA: TX		
8041386	15075	4243530516	108		FIELDS 20 #2 58362	58,0	INTRATEX GAS CO
8041387	15077	4243530087	108		FIELDS 55 #1 53867	12,0	INTRATEX GAS CO
8041388	15083	4243530959	108		SAWYER 128 #3 61310	19,0	INTRATEX GAS CO

* ADDITIONAL PURCHASERS(SEE END OF LIST)

FERC NO	JA DKT NO	API NO	SECT	DEN	WELL NAME	PROD	PURCHASER
8041390	15085	4243530080	108		VANDERSTUCKEN 45 #1 53073	8.0	INTRATEX GAS CO
8041389	15086	4243530066	108		VANDERSTUCKEN 50 #1 52973	17.0	INTRATEX GAS CO
8041391	15087	4243530675	108		VANDERSTUCKEN 50 #3 59425	19.0	INTRATEX GAS CO
HOU-TEX OIL & GAS CO					RECEIVED: 06/19/80 JA: TX		
8041448	17481	4240100000	102		W A YANDLE ESTATE NO 1	730.0	DELHI GAS PIPELINE CORP
J CLEO THOMPSON					RECEIVED: 06/19/80 JA: TX		
8041215	11850	4210300000	108		MAGNOLIA NO (8) * 04212	1.5	PHILLIPS PETROLEUM CO
J M HUBER CORPORATION					RECEIVED: 06/19/80 JA: TX		
8041028	05101	4206500000	108		BURNETT R NO 26	10.5	GETTY OIL CO
8041031	05204	4223300000	108		HERRING-BURCH HERRING NO 115	1.2	COLORADO INTERSTATE GAS CO
8041036	05317	4223300000	108		RILEY AFGK NO A3	3.5	COLORADO INTERSTATE GAS CO
8041038	05360	4223300000	108		RILEY AFGK NO A4	3.5	COLORADO INTERSTATE GAS CO
8041037	05354	4223300000	108		RILEY AFGK NO F9	3.5	COLORADO INTERSTATE GAS CO
8041039	05365	4223300000	108		RILEY AFGK NO G1	3.5	COLORADO INTERSTATE GAS CO
8041027	05025	4223300000	108		RILEY AFGK NO G20	3.5	COLORADO INTERSTATE GAS CO
8041029	05175	4223300000	108		RILEY AFGK NO G23	3.5	COLORADO INTERSTATE GAS CO
8041033	05213	4223300000	108		STATE B NO 55	0.3	GETTY OIL CO
8041032	05212	4223300000	108		STATE B NO 58	0.3	GETTY OIL CO
JACK L PHILLIPS					RECEIVED: 06/19/80 JA: TX		
8041356	14486	4220330621	103		E WILLIAMS B 10153	18.0	UNITED GAS PIPELINE CO
JAMES L RUMINES					RECEIVED: 06/19/80 JA: TX		
8041211	11808	4248300000	108		BRUCK NO 1	6.2	PHILLIPS PETROLEUM CO
8041209	11805	4217900000	108		CHAPMAN NO 1-7	4.6	COLTEXO CORP
8041210	11807	4217900000	108		J HORSE NO 1	3.3	COLTEXO CORP
8041207	11804	4217900000	108		PETTIT A NO 1	4.4	PHILLIPS PETROLEUM CO
8041208	11805	4217900000	108		PETTIT A NO 2	2.0	PHILLIPS PETROLEUM CO
8041206	11803	4217900000	108		PETTIT NO 1	14.0	PHILLIPS PETROLEUM CO
JOHN H HENDRIX CORPORATION					RECEIVED: 06/19/80 JA: TX		
8041452	17570	4210331925	102		PENNZOIL-TUBB #1	360.0	TRANSWESTERN PIPELINE CO
JONES-O'BRIEN INCORPORATED					RECEIVED: 06/19/80 JA: TX		
8041374	14997	4207300000	102		B H SMITH #1	548.0	UNITED GAS PIPE LINE CO
8041105	09042	4234730124	102		T H PETERSON #1 77148	221.0	UNITED GAS PIPE LINE
KADANE OIL CO					RECEIVED: 06/19/80 JA: TX		
8041171	11258	4209730605	102		AMOCO-BRATCHER UNIT 1	182.5	CCGP LTD
8041170	11256	4209730553	102		BRATCHER-RAGSDALE UNIT 1	547.5	CCGP LTD
KILROY COMPANY OF TEXAS INC					RECEIVED: 06/19/80 JA: TX		

* ADDITIONAL PURCHASERS(SEE END OF LIST)

FERC NO	JA DKT NO	API NO	SECT	DEN	WELL NAME	PROD	PURCHASER
8041161	10782	4224130300	103		ARCO-ALLEN #2	77.0	UNITED TEXAS TRANS
KOMANCHE OIL & GAS					RECEIVED: 06/19/80 JA: TX		
8041061	06490	4217930355	103		COBB NO 3 03291	100.0	NORTHERN NATURAL GAS CO
L&M OIL CO					RECEIVED: 06/19/80 JA: TX		
8041077	07416	4236331991	102		HINKSON WELL NO 2 RRC #79348	35.0	BRAZOS ELEC COOP
LEAR PETROLEUM CORPORATION					RECEIVED: 06/19/80 JA: TX		
*8041129	10328	4208700000	108		BRADSHAW A LEASE WELL NO 10	0.5	EL PASO NATURAL GAS CO
*8041127	10326	4208700000	108		BRADSHAW A LEASE WELL NO 4	0.5	EL PASO NATURAL GAS CO
*8041128	10327	4208700000	108		BRADSHAW LEASE NO 6	1.1	EL PASO NATURAL GAS CO
*8041126	10325	4208700000	108		BRADSHAW LEASE WELL NO 3	1.1	EL PASO NATURAL GAS CO
*8041132	10336	4208700000	108		HALL LEASE WELL NO 10	1.4	EL PASO NATURAL GAS CO
*8041138	10362	4208700000	108		LAYCUCK LEASE (WELL NO 10)	1.6	EL PASO NATURAL GAS CO
*8041139	10367	4208700000	108		LAYCUCK LEASE (WELL NO 5)	1.6	EL PASO NATURAL GAS CO
*8041136	10360	4208700000	108		LAYCUCK LEASE (WELL NO 6)	1.4	EL PASO NATURAL GAS CO
*8041137	10361	4208700000	108		LAYCUCK LEASE (WELL NO 7)	1.6	EL PASO NATURAL GAS CO
*8041133	10340	4208700000	108		LAYCUCK LEASE (WELL NO 9)	1.6	EL PASO NATURAL GAS CO
*8041135	10343	4208700000	108		LAYCUCK LEASE - WELL #3	1.6	EL PASO NATURAL GAS CO
*8041134	10342	4208700000	108		LAYCUCK LEASE WELL #2	1.9	EL PASO NATURAL GAS CO
*8041130	10330	4208700000	108		LAYCUCK LEASE WELL #4	1.6	EL PASO NATURAL GAS CO
*8041131	10331	4208700000	108		SMITH LEASE (WELL NO.3)	2.6	EL PASO NATURAL GAS CO
M T HARMON					RECEIVED: 06/19/80 JA: TX		
8041270	13528	4223300000	108		WARE FEE #1 RRC #00982	7.4	GETTY OIL CO
8041277	13536	4223300000	108		WARE FEE #11 RRC #00982	7.4	GETTY OIL CO
8041278	13537	4223300000	108		WARE FEE #12 RRC #00982	7.4	GETTY OIL CO
8041279	13538	4223300000	108		WARE FEE #13 RRC #00982	7.4	GETTY OIL CO
8041280	13539	4223300000	108		WARE FEE #14 RRC #00982	7.4	GETTY OIL CO
8041281	13541	4223300000	108		WARE FEE #16 RRC #00982	7.4	GETTY OIL CO
8041271	13529	4223300000	108		WARE FEE #2 RRC #00982	7.4	GETTY OIL CO
8041272	13530	4223300000	108		WARE FEE #3 RRC #00982	7.4	GETTY OIL CO
8041273	13531	4223300000	108		WARE FEE #4 RRC #00982	7.4	GETTY OIL CO
8041274	13532	4223300000	108		WARE FEE #7 RRC #00982	7.4	GETTY OIL CO
8041275	13533	4223300000	108		WARE FEE #8 RRC #00982	7.4	GETTY OIL CO
8041276	13534	4223300000	108		WARE FEE #9 RRC #00982	7.4	GETTY OIL CO
MARION H STEKOLL EXEC					RECEIVED: 06/19/80 JA: TX		
8041148	10615	4223300000	108		PERKINS-MARTIN (01254) NO 5	0.4	PHILLIPS PETROLEUM CO
MAY PETROLEUM INC					RECEIVED: 06/19/80 JA: TX		
8041441	17191	4235730910	102		TAYLOR #1 (84397)	292.0	NORTHERN NATURAL GAS CO
MCCORMICK OIL & GAS CORP					RECEIVED: 06/19/80 JA: TX		
8041438	17042	4215730922	102		CORNER STONE NO 1	272.0	HOUSTON PIPE LINE CO

* ADDITIONAL PURCHASERS(SEE END OF LIST)

FERC NO	JA DKT NO	API NO	SECT	DEN	WELL NAME	PROD	PURCHASER
MCCULLOCH OIL CORP OF TEXAS					RECEIVED: 06/19/80 JA: TX		
8041016	00251	4221130107	108		MATHERS RANCH NO 8	2,0	ARKANSAS LOUISIANA GAS CO
MELBOURNE OIL COMPANY					RECEIVED: 06/19/80 JA: TX		
8041244	12385	4235730862	103		HARDY #1 04415	0,0	
MID-AMERICA PETROLEUM INC					RECEIVED: 06/19/80 JA: TX		
8041113	09401	4216531299	102		STATE #1	180,0	NORTHERN NATURAL GAS CO
MITCHELL ENERGY CORPORATION					RECEIVED: 06/19/80 JA: TX		
8041344	14298	4249731250	103		B B MCCLURE #2 82577	90,0	NATURAL GAS PIPELINE CO OF AMERICA
8041288	13644	4236731374	103		DON SPRINGFIELD #1 #79604	100,0	NATURAL GAS PIPELINE CO OF AMERICA
8041346	14300	4223732580	103		EMMA MCCLURE #3 82822	135,0	NATURAL GAS PIPELINE CO OF AMERICA
8041347	14301	4223732577	103		JACK GRACE RANCH #6 82823	60,0	NATURAL GAS PIPELINE CO OF AMERICA
8041345	14299	4249731456	103		MAEYERS-JANUARY #2 82749	150,0	NATURAL GAS PIPELINE CO OF AMERICA
8041348	14302	4249731437	103		T P BROWN UNIT #2 WELL #3 82695	125,0	NATURAL GAS PIPELINE CO OF AMERICA
MONSANTO COMPANY					RECEIVED: 06/19/80 JA: TX		
8041020	02149	4207930969	103		STARNES #12 #62171	10,2	CITIES SERVICE GAS CO
8041178	11327	4247531668	102		UNIVERSITY 17-6 #1	400,0	TRANSWESTERN PIPELINE CO
MOORE MCCORMACK OIL & GAS CORP					RECEIVED: 06/19/80 JA: TX		
8041425	15207	4247932329	102		HUBBARD G 1	299,0	TENNESSEE GAS PIPELINE CO
8041429	15282	4217500000	108		V ALBRECHT NO 22	5,0	LONE STAR GAS CO
8041427	15280	4217500000	108		V ALBRECHT NO 5A	13,0	LONE STAR GAS CO
8041428	15281	4217500000	108		V ALBRECHT NO 8	14,0	LONE STAR GAS CO
MOORE MCCORMACK PRODUCTION CO					RECEIVED: 06/19/80 JA: TX		
8041040	05620	4217531127	103		LUKER NO 1	128,0	UNITED GAS PIPE LINE CO
MORAN EXPLORATION INC					RECEIVED: 06/19/80 JA: TX		
8041519	14227	4223531370	103		KUCKER B-86 #2	0,0	NORTHERN NATURAL GAS CO
8041357	14490	4210500000	108		TIPPETT 59 #2	3,6	SHELL OIL CO
MRJ PRODUCING COMPANY					RECEIVED: 06/19/80 JA: TX		
8041286	13619	4217330988	103		WEBB #1	41,0	EL PASO NATURAL GAS CO
NATURAL GAS ANADARKO INC					RECEIVED: 06/19/80 JA: TX		
8041432	15787	4235730897	102		POWERS #1-496	250,0	PHILLIPS PETROLEUM CO
NICHOLAS PETROLEUM					RECEIVED: 06/19/80 JA: TX		
8041149	10660	4205932044	103		GLOVER WELL #1	105,0	ODESSA NATURAL CORP

* ADDITIONAL PURCHASERS(SEE END OF LIST)

FERC NO	JA DKT NO	API NO	SECT	DEN	WELL NAME	PROD	PURCHASER
ORLA PETCO INC					RECEIVED: 06/19/80 JA: TX		
8041250	12576	4238900000	108		GULF 29 LEASE RRC#18209 #2	2.6	GULF OIL CORP
8041247	12550	4238900000	108		GULF 29 LEASE RRC#18209 #3	2.6	GULF OIL CORP
8041246	12549	4238900000	108		GULF 29 LEASE RRC#18209 #4	2.6	GULF OIL CORP
8041251	12577	4238900000	108		SINCLAIR-DAVIS RRC#17890 #1	0.4	CONOCO INC
8041249	12575	4238900000	108		SINCLAIR-DAVIS RRC#17890 #2	0.4	CONOCO INC
PAN RESOURCES INC					RECEIVED: 06/19/80 JA: TX		
8041070	06792	4223300000	108		HOLIFIELD-WHITTENBURG A NO 14	1.5	GETTY OIL CO
8041066	06763	4223300000	108		WARE NO 11	0.3	GETTY OIL CO
8041067	06764	4223300000	108		WARE NO 8	0.3	GETTY OIL CO
8041069	06780	4223300000	108		WHITTENBURG D NO 3	0.7	GETTY OIL CO
8041068	06779	4223300000	108		WHITTENBURG D NO 4	0.7	GETTY OIL CO
8041065	06762	4223300000	108		WHITTENBURG ESTATE NO 28	0.9	GETTY OIL CO
PANHANDLE PRODUCING COMPANY					RECEIVED: 06/19/80 JA: TX,		
8041392	15103	4206500000	108		BURNETT NO 1 (01565)	3.8	PHILLIPS PETROLEUM CO
8041393	15104	4206500000	108		BURNETT NO 2 (01565)	3.8	PHILLIPS PETROLEUM CO
8041394	15105	4206500000	108		BURNETT NO 3 (01565)	3.8	PHILLIPS PETROLEUM CO
8041395	15106	4206500000	108		BURNETT NO 4 (01565)	3.8	PHILLIPS PETROLEUM CO
8041398	15110	4223300000	108		ELLIS COCKRELL NO 10 (00819)	0.8	PHILLIPS PETROLEUM CO
8041399	15111	4223300000	108		ELLIS COCKRELL NO 12 (00819)	0.8	PHILLIPS PETROLEUM CO
8041400	15112	4223300000	108		ELLIS COCKRELL NO 15 (00819)	0.8	PHILLIPS PETROLEUM CO
8041401	15113	4223300000	108		ELLIS COCKRELL NO 16 (00819)	0.8	PHILLIPS PETROLEUM CO
8041396	15107	4223300000	108		ELLIS COCKRELL NO 5 (00819)	0.8	PHILLIPS PETROLEUM CO
8041397	15109	4223300000	108		ELLIS COCKRELL NO 8 (00819)	0.8	PHILLIPS PETROLEUM CO
8041402	15114	4223300000	108		HARDIN NO 1 (00821)	1.0	PHILLIPS PETROLEUM CO
8041410	15122	4223300000	108		HARDIN NO 11 (00821)	1.0	PHILLIPS PETROLEUM CO
8041409	15121	4223300000	108		HARDIN NO 13 (00821)	1.0	PHILLIPS PETROLEUM CO
8041411	15123	4223300000	108		HARDIN NO 14 (00821)	1.0	PHILLIPS PETROLEUM CO
8041403	15115	4223300000	108		HARDIN NO 3 (00821)	1.0	PHILLIPS PETROLEUM CO
8041404	15116	4223300000	108		HARDIN NO 5 (00821)	1.0	PHILLIPS PETROLEUM CO
8041405	15117	4223300000	108		HARDIN NO 6 (00821)	1.0	PHILLIPS PETROLEUM CO
8041406	15118	4223300000	108		HARDIN NO 7 (00821)	1.0	PHILLIPS PETROLEUM CO
8041407	15119	4223300000	108		HARDIN NO 8 (00821)	1.0	PHILLIPS PETROLEUM CO
8041408	15120	4223300000	108		HARDIN NO 9 (00821)	1.0	PHILLIPS PETROLEUM CO
8041417	15130	4223300000	108		KINGSLAND NO 10 (01934)	0.2	PHILLIPS PETROLEUM CO
8041418	15131	4223300000	108		KINGSLAND NO 11 (01934)	0.2	PHILLIPS PETROLEUM CO
8041419	15132	4223300000	108		KINGSLAND NO 12 (01934)	0.2	PHILLIPS PETROLEUM CO
8041420	15133	4223300000	108		KINGSLAND NO 13 (01934)	0.2	PHILLIPS PETROLEUM CO
8041421	15134	4223300000	108		KINGSLAND NO 14 (01934)	0.2	PHILLIPS PETROLEUM CO
8041422	15135	4223300000	108		KINGSLAND NO 15 (01934)	0.2	PHILLIPS PETROLEUM CO
8041412	15124	4223300000	108		KINGSLAND NO 3 (01934)	0.2	PHILLIPS PETROLEUM CO
8041413	15125	4223300000	108		KINGSLAND NO 4 (01934)	0.2	PHILLIPS PETROLEUM CO
8041414	15126	4223300000	108		KINGSLAND NO 5 (01934)	0.2	PHILLIPS PETROLEUM CO
8041415	15127	4223300000	108		KINGSLAND NO 6 (01934)	0.2	PHILLIPS PETROLEUM CO
8041416	15128	4223300000	108		KINGSLAND NO 7 (01934)	0.2	PHILLIPS PETROLEUM CO
8041423	15136	4217900000	108		WORLEY NO 1 (00319)	1.4	PHILLIPS PETROLEUM CO
PAR OIL CORPORATION					RECEIVED: 06/19/80 JA: TX		

* ADDITIONAL PURCHASERS(SEE END OF LIST)

FERC NO	JA DKT NO	API NO	SECT	DEN	WELL NAME	PROD	PURCHASER
8041283	13564	4221330238	102		LITTLE GAS UNIT 1 NO 1	870.0	UNITED GAS PIPELINE CO
PENINSULA RESOURCES CORPORATION					RECEIVED: 06/19/80 JA: TX		
8041098	08567	4247900000	108		PALAFOX #1 #55425	15.3	TEJAS GAS CORP
8041092	08557	4247900000	108		PALAFOX #12-1 #58122	7.7	TEJAS GAS CORP
8041095	08563	4247900000	108		PALAFOX #2 #55426	5.1	TEJAS GAS CORP
8041093	08561	4247900000	108		PALAFOX #3 #55427	20.1	TEJAS GAS CORP
8041096	08565	4247900000	108		PALAFOX #4 #55424	13.9	TEJAS GAS CORP
8041094	08562	4247900000	108		PALAFOX #5 #58187	15.0	TEJAS GAS CORP
8041097	08566	4247900000	108		PALAFOX #7 #58188	7.3	TEJAS GAS CORP
PENNZOIL PRODUCING COMPANY					RECEIVED: 06/19/80 JA: TX		
8041111	09327	4236530824	103		ALLISON UNIT NO 2-T	700.0	UNITED GAS PIPE LINE CO
8041291	13649	4236530909	103		HULL NO A-20	550.0	UNITED GAS PIPE LINE COMPANY
8041437	17011	4235531410	102		IRENE H WALTON NO B 4-D	450.0	UNITED GAS PIPE LINE CO
8041290	13648	4236530874	103		LILLY UNIT NO 2-T	900.0	UNITED GAS PIPE LINE CO
PETER HENDERSON OIL CO					RECEIVED: 06/19/80 JA: TX		
8041426	15209	4202500000	108		CYRUS FOX ET AL #1 RRC ID #00880	16.1	UNITED GAS PIPELINE CO
PHILLIPS PETROLEUM COMPANY					RECEIVED: 06/19/80 JA: TX		
8041021	04633	4200310349	108		(17015) BITLER NO 57	0.2	EL PASO NATURAL GAS CO
8041455	17949	4236530892	102		BALL 2 NO 2	350.0	UNITED GAS PIPELINE CO
8041083	07672	4223300000	108		BARNES B NO 3	12.9	EL PASO NATURAL GAS CO
8041317	14149	4242100000	108		CARTER #1	18.0	MICHIGAN WISCONSIN PIPE LINE CO
8041258	13116	4223300000	108		COCKRELL RANCH NO 1	1.4	GETTY OIL CO
8041259	13124	4223300000	108		COCKRELL RANCH NO 52	8.0	GETTY OIL CO
8041255	13038	4223300000	108		HARVEY UNIT 03-05	1.3	GETTY OIL CO
8041260	13185	4223300000	108		HARVEY UNIT 08-03	0.3	GETTY OIL CO
8041256	13073	4223300000	108		HARVEY UNIT 09-03	0.3	GETTY OIL CO
8041257	13114	4217900000	108		LEOPOLD A NO 6	1.0	GETTY OIL CO
*8041316	14143	4223300000	108		RECORD BESSIE NO 2	19.0	EL PASO NATURAL GAS CO
8041216	11853	4223300000	108		WHITTENBURG D NO 9	1.0	EL PASO NATURAL GAS CO
*8041217	11862	4223300000	108		WHITTENBURG NO 62 NO 3	3.0	EL PASO NATURAL GAS CO
8041318	14202	4242100000	108		WITT C NO 1	10.0	MICHIGAN WISCONSIN PIPE LINE CO
R C BENNETT					RECEIVED: 06/19/80 JA: TX		
8041349	14304	4243130778	103		BADE C #2	100.0	LO * VACA GATHERING CO
R-R OIL CO					RECEIVED: 06/19/80 JA: TX		
8041242	12257	4217900000	108		MORL #2	7.2	PHILLIPS PETROLEUM CO
RAMSEY & GASSAWAY					RECEIVED: 06/19/80 JA: TX		
8041089	08429	4217900000	108		COBB 9A ESTATE 29907	6.0	COLTEXO CORP
RESOURCES INVESTMENT CORPORATION					RECEIVED: 06/19/80 JA: TX		

* ADDITIONAL PURCHASERS(SEE END OF LIST)

FERC NO	JA DKT NO	API NO	SECT	DEN	WELL NAME	PROD	PURCHASER
8041074	07289	4223531311	103		COX NO 1-18	240.0	NORTHERN NATURAL GAS CO
8041075	07293	4223531197	103		COX NO 1-60	240.0	NORTHERN NATURAL GAS CO
RODNEY BARKER					RECEIVED: 06/19/80 JA: TX		
8041151	10668	4248300000	108		ELSIE LINDSEY #1 26695	1.8	MORGAS
8041150	10667	4248300000	108		LINDSEY-CLAY #1 26696	0.3	MORGAS CO
ROMINES AND WARNER					RECEIVED: 06/19/80 JA: TX		
8041212	11809	4217900000	108		LANGHAM B NO 1	8.0	COLTEXO CORP
ROY H RAMSEY					RECEIVED: 06/19/80 JA: TX		
8041060	06486	4223300000	108		COCKRELL WELL NO 1 (02565)	0.0	PHILLIPS PETROLEUM CO
SAMEDAN OIL CORPORATION					RECEIVED: 06/19/80 JA: TX		
8041430	15306	4228930115	102		GRAYSON #1	185.0	DELHI GAS PIPELINE CORP
SAXON OIL COMPANY					RECEIVED: 06/19/80 JA: TX		
8041337	14256	4238331215	103		UNIVERSITY 12 #1	7.3	NORTHERN NATURAL GAS CO
8041334	14253	4238331216	103		UNIVERSITY 12 #2	22.6	NORTHERN NATURAL GAS CO
8041331	14250	4238331196	103		UNIVERSITY 12 #3	13.1	NORTHERN NATURAL GAS CO
8041330	14249	4238331217	103		UNIVERSITY 12 #4	19.7	NORTHERN NATURAL GAS CO
8041329	14248	4238331159	103		UNIVERSITY 13 #1	3.2	NORTHERN NATURAL GAS CO
8041323	14242	4238331199	103		UNIVERSITY 13 #2	19.3	NORTHERN NATURAL GAS CO
8041322	14241	4238331243	103		UNIVERSITY 14 #1	0.0	NORTHERN NATURAL GAS CO
8041321	14240	4238331244	103		UNIVERSITY 14 #2	17.5	NORTHERN NATURAL GAS CO
8041332	14251	4238331245	103		UNIVERSITY 14 #3	18.6	NORTHERN NATURAL GAS CO
8041328	14247	4238331246	103		UNIVERSITY 14 #4	17.8	NORTHERN NATURAL GAS CO
8041320	14239	4238331248	103		UNIVERSITY 18 #1	16.8	NORTHERN NATURAL GAS CO
8041336	14255	4238331247	103		UNIVERSITY 18 #2	20.8	NORTHERN NATURAL GAS CO
8041333	14252	4238331249	103		UNIVERSITY 18 #3	22.3	NORTHERN NATURAL GAS CO
8041335	14254	4238331250	103		UNIVERSITY 18 #4	17.9	NORTHERN NATURAL GAS CO
8041338	14257	4238331251	103		UNIVERSITY 4 #1	20.4	NORTHERN NATURAL GAS CO
8041341	14261	4238331229	103		UNIVERSITY 4 #2	18.6	NORTHERN NATURAL GAS CO
8041340	14260	4238331232	103		UNIVERSITY 4 #3	17.9	NORTHERN NATURAL GAS CO
8041339	14259	4238331230	103		UNIVERSITY 4 #4	19.3	NORTHERN NATURAL GAS CO
8041327	14246	4238331251	103		UNIVERSITY 7 #1A	19.7	NORTHERN NATURAL GAS CO
8041326	14245	4238331235	103		UNIVERSITY 7 #2	18.6	NORTHERN NATURAL GAS CO
8041325	14244	4238331324	103		UNIVERSITY 7 #3	19.0	NORTHERN NATURAL GAS CO
8041324	14243	4238331336	103		UNIVERSITY 7 #4	18.3	NORTHERN NATURAL GAS CO
8041371	14856	4238331183	103		WEATHERBY I #1	10.9	PHILLIPS PETROLEUM CO
SOUTHLAND MINERALS CO					RECEIVED: 06/19/80 JA: TX		
8041084	07698	4229731751	102		H D HOUSE #1	218.0	
8041085	07706	4212330914	103		MILLER GAS UNIT #1	146.0	TEXAS EASTERN TRANSMISSION CORP
SOUTHLAND ROYALTY CO					RECEIVED: 06/19/80 JA: TX		
8041112	09370	4213532841	103		H C FOSTER #26	22.0	ODESSA NATURAL CORP

* ADDITIONAL PURCHASERS(SEE END OF LIST)

FERC NO	JA DKT NO	API NO	SECT	DEN	WELL NAME	PROD	PURCHASER
STRATA ENERGY INC					RECEIVED: 06/19/80 JA: TX		
8041460	19419	4205130396	102		BILLY BLAHA #1	50,0	CLAJUN GAS CO
SUN OIL COMPANY (DELAWARE)					RECEIVED: 06/19/80 JA: TX		
8041303	13742	4216730689	103		CADE ESTATE NO 14	12,0	TEXAS GAS PIPE LINE CORP
8041047	06115	4249730973	103		M MILLER UNIT NO 2	241,0	NATURAL GAS PIPELINE CO OF AMERICA
8041064	06523	4246931275	102		SHELTON-WEST UNIT WELL #1	30,0	UNITED TEXAS TRANSMISSION CORP
TENNECO OIL COMPANY					RECEIVED: 06/19/80 JA: TX		
8041076	07297	4217930631	103		COMBS NO 25-A	3,0	PHILLIPS PETROLEUM CO
8041091	08475	4217930617	103		COMBS NO 26-A	6,0	PHILLIPS PETROLEUM CO
8041073	07271	4250131234	103		HEDBURG #9	0,5	AMOCO PRODUCTION CO
8041090	08455	4217930586	103		WORLEY NO 87	2,0	PHILLIPS PETROLEUM CO
TERRA RESOURCES INC					RECEIVED: 06/19/80 JA: TX		
8041434	15974	4241531323	102		#1 DAN E WHATLEY	55,0	SUN GAS CO
8041435	16009	4241531348	102		#1 LLOYD AINSWORTH	55,0	SUN GAS CO
TEXACO INC					RECEIVED: 06/19/80 JA: TX		
8041046	06090	4217900000	108		B M LOVE (NCT-1) #1	5,5	COLTEXO CORP
8041285	13637	4217330875	103		GLASSCOCK F FEE NO 1	74,4	EL PASO NATURAL GAS CO
8041292	13651	4237132497	103		PECOS E FEE NO 2	87,0	TRANSCONTINENTAL GAS PIPE LINE COR
TEXAS OIL & GAS CORP					RECEIVED: 06/19/80 JA: TX		
8041262	13265	4205730906	103		CLARK M #1	146,0	
*8041433	15661	4207330338	102		PERDUE #1	100,0	UNITED GAS PIPELINE CO
8041267	13474	4216130461	102		SENTER A #1	200,0	UNITED GAS PIPE LINE CO
8041266	13475	4216130456	102103		TEAGUE GAS UNIT #1-2	1000,0	UNITED GAS PIPELINE CO
8041183	11423	4223931392	102		WEARDEN #5	36,0	
TEXLAND PETROLEUM INC					RECEIVED: 06/19/80 JA: TX		
8041144	10408	4221932336	102		D B BRYAN NO 1 (61972)	2,0	AMOCO PRODUCTION CO
8041145	10409	4221932355	102		D B BRYAN NO 2 (61972)	2,0	AMOCO PRODUCTION CO
8041140	10404	4221932407	102		D B BRYAN NO 3 (61972)	2,0	AMOCO PRODUCTION CO
8041141	10405	4221932379	102		DAVIS NO 1 (62068)	1,0	AMOCO PRODUCTION CO
8041142	10406	4221932409	102		DAVIS NO 2 (62068)	1,8	AMOCO PRODUCTION CO
8041143	10407	4221932545	102		DAVIS NO 3	1,0	AMOCO PRODUCTION CO
8041146	10411	4221931923	102		L G WILSON NO 1	2,5	AMOCO PRODUCTION CO
THE ARD DRILLING COMPANY INC					RECEIVED: 06/19/80 JA: TX		
8041115	09738	4207931019	103		D S WRIGHT J WELL NO 5	17,5	EL PASO NATURAL GAS CO
THOMAS C CANAN					RECEIVED: 06/19/80 JA: TX		
8041236	12188	4242900000	108		FAMBRAUGH A NO 1 RRC #61411	10,0	SOUTHWESTERN GAS PIPELINE CO

* ADDITIONAL PURCHASERS(SEE END OF LIST)

FERC NO	JA DKT NO	API NO	SECT	DEN	WELL NAME	PROD	PURCHASER
TRAVELERS OIL CO G-V PROJECT					RECEIVED: 06/19/80 JA: TX		
8041088	08134	4217900000	108		CARPENTER C #1	0.0	
TRAVELERS OIL CO					RECEIVED: 06/19/80 JA: TX		
8041087	08122	4217900000	103		CARPENTER #1 RRC #04337	21.5	TRANSWESTERN PIPELINE CO
8041059	06444	4223300000	108		MARTIN #20 01057	4.5	PHILLIPS PETROLEUM CO
8041057	06442	4223300000	108		MARTIN #3 01057	4.5	PHILLIPS PETROLEUM CO
8041058	06443	4223300000	108		MARTIN #4 01057	4.5	PHILLIPS PETROLEUM CO
TRES PETROLEUM INC					RECEIVED: 06/19/80 JA: TX		
8041099	08618	4210300000	108		YARBROUGH & ALLEN NO 39	3.6	WARREN PETROLEUM CO
TRIPLE J OIL CO					RECEIVED: 06/19/80 JA: TX		
8041214	11824	4217900000	108		W N CASTLEBERRY #1 00686	0.1	GETTY OIL CO
8041213	11823	4217900000	108		W N CASTLEBERRY #3 00686	0.1	GETTY OIL CO
TRIPPLEHORN GAS CO					RECEIVED: 06/19/80 JA: TX		
8041218	12028	4217900000	108		P A WORLEY NO 1	2.1	PHILLIPS PETROLEUM CO
8041219	12029	4217900000	108		P A WORLEY NO 2	2.1	PHILLIPS PETROLEUM CO
8041220	12030	4217900000	108		P A WORLEY NO 3	0.0	PHILLIPS PETROLEUM CO
8041221	12031	4217900000	108		P A WORLEY NO 6	1.0	PHILLIPS PETROLEUM CO
TRIPPLEHORN OIL CO					RECEIVED: 06/19/80 JA: TX		
8041229	12045	4223300000	108		R C WARE NO 12	1.0	GETTY OIL CO
8041230	12046	4223300000	108		R C WARE NO 13	1.0	GETTY OIL CO
8041231	12047	4223300000	108		R C WARE NO 14	0.7	GETTY OIL CO
8041233	12049	4223300000	108		R C WARE NO 16	0.0	GETTY OIL CO
8041222	12035	4223300000	108		R C WARE NO 2	0.8	GETTY OIL CO
8041223	12036	4223300000	108		R C WARE NO 4	0.4	GETTY OIL CO
8041224	12037	4223300000	108		R C WARE NO 5	0.5	GETTY OIL CO
8041225	12038	4223300000	108		R C WARE NO 6	0.9	GETTY OIL CO
8041226	12039	4223300000	108		R C WARE NO 7	1.0	GETTY OIL CO
8041227	12040	4223300000	108		R C WARE NO 8	1.2	GETTY OIL CO
8041228	12042	4223300000	108		R C WARE NO 9	1.2	GETTY OIL CO
8041232	12048	4223300000	108		UNIVERSITY 14 #3	18.6	NORTHERN NATURAL GAS CO
TRITON OIL & GAS CORP					RECEIVED: 06/19/80 JA: TX		
8041424	15151	4221330231	102		HARWELL GAS UNIT NO 1-A NO 1	650.0	UNITED GAS PIPE LINE CO
8041289	13647	4221330225	102		HARWELL GAS UNIT NO 2 NO 1	550.0	UNITED GAS PIPELINE CO
8041431	15763	4221330249	102		ZOLLER GAS UNIT NO 1 NO 1	650.0	UNITED GAS PIPE LINE CO
TUCKER DRILLING COMPANY INC					RECEIVED: 06/19/80 JA: TX		
8041110	09230	4223531315	103		FARMER 43-2	72.0	CRA INC
U S OPERATING INC					RECEIVED: 06/19/80 JA: TX		
8041194	11756	4228730461	102		JAN #1 (ID 82185)	800.0	PGP GAS PRODUCTS INC

* ADDITIONAL PURCHASERS(SEE END OF LIST)

FERC NO	JA DKT NO	API NO	SECT	DEN	WELL NAME	PROD	PURCHASER
U S RESOURCES INC				RECEIVED: 06/19/80 JA: TX			
8041195	11757	4228730400	102		WILLIE #1	730.0	PGP GAS PRODUCTS INC
UNITED CO				RECEIVED: 06/19/80 JA: TX			
8041165	10887	4207900000	103		SEABOARD WRIGHT #21	0.0	EL PASO NATURAL GAS CO
8041166	10897	4207900000	103		WRIGHT ESTATE #7	0.0	EL PASO NATURAL GAS CO
VARN PETROLEUM CO				RECEIVED: 06/19/80 JA: TX			
8041310	14011	4240900000	103		BEN HILL ET AL NO 1	511.0	TRANSCONTINENTAL GAS PIPE LINE COR
8041439	17086	4235531395	102		FLATO ESTATE NO 1 5600 #1-T	438.0	TENNESSEE GAS PIPELINE CO
W B D OIL & GAS CO				RECEIVED: 06/19/80 JA: TX			
8041030	05194	4233900000	108		LYNCH #1 RRC03676	25.0	PHILLIPS PETROLEUM CO
8041043	05727	4233900000	108		LYNCH #4 RRC03676	25.0	PHILLIPS PETROLEUM CO
8041042	05723	4233900000	108		MORTON #1 RRC #02364	11.2	PHILLIPS PETROLEUM CO
8041041	05624	4233900000	108		MORTON #11 RRC02364	0.0	PHILLIPS PETROLEUM CO
W L BRUCE OPERATOR				RECEIVED: 06/19/80 JA: TX			
8041044	05739	4223300000	108		DUNAWAY #6 RRC 01145	4.6	DIAMOND SHAMROCK CORP
8041034	05262	4233900000	108		LYNCH #3 RRC03676	25.0	PHILLIPS PETROLEUM CO
8041035	05265	4233900000	108		LYNCH #6 RRC 03676	25.0	PHILLIPS PETROLEUM CO
WALSH AND WATTS INC				RECEIVED: 06/19/80 JA: TX			
8041102	08881	4223300000	108		THOMPSON #10 01334	1.0	PHILLIPS PETROLEUM CO
8041101	08880	4223300000	108		THOMPSON #7 01334	1.0	PHILLIPS PETROLEUM CO
WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED: 06/19/80 JA: TX			
8041269	13483	4210300000	108		J B TUBB B TR 8 NO 24	1.0	EL PASO NATURAL GAS CO
8041245	12380	4210300000	108		M F HENDERSON (NCT-B) TR 0 #97	1.0	EL PASO NATURAL GAS CO
8041167	11031	4210300000	108		W N WADDELL ET AL NO 988	5.0	M T GATHERING CO
8041181	11387	4210300000	108		W N WADDELL ET AL TR A NO 12	4.0	EL PASO NATURAL GAS CO
8041180	11386	4210300000	108		W N WADDELL ET AL TR A NO 537	1.0	EL PASO NATURAL GAS CO
8041177	11524	4210300000	108		W N WADDELL ET AL TR A NO 891	4.0	EL PASO NATURAL GAS CO
8041173	11320	4210300000	108		W N WADDELL ET AL TR A NO 908	3.0	EL PASO NATURAL GAS CO
8041172	11519	4210300000	108		W N WADDELL ET AL TR A 1045	6.0	EL PASO NATURAL GAS CO
8041176	11323	4210300000	108		W N WADDELL ET AL TR A 198	1.0	EL PASO NATURAL GAS CO
8041169	11112	4210300000	108		W N WADDELL ET AL TR A 227	3.0	EL PASO NATURAL GAS CO
8041174	11321	4210300000	108		W N WADDELL ET AL TR A 272	6.0	EL PASO NATURAL GAS CO
8041179	11384	4210300000	108		W N WADDELL ET AL TR A 276	1.0	EL PASO NATURAL GAS CO
8041168	11106	4210300000	108		W N WADDELL ET AL TR A 297	3.0	EL PASO NATURAL GAS CO
8041175	11322	4210300000	108		W N WADDELL ET AL TR A 300	7.0	EL PASO NATURAL GAS CO
8041182	11414	4210300000	108		W N WADDELL ET AL TR A 350	1.0	EL PASO NATURAL GAS CO
8041186	11536	4210300000	108		W N WADDELL ET AL TR B 24	1.0	EL PASO NATURAL GAS CO
8041189	11537	4210300000	108		W N WADDELL ET AL TR C 423	4.0	EL PASO NATURAL GAS CO
8041190	11538	4210300000	108		W N WADDELL TR 1 #466	3.0	EL PASO NATURAL GAS CO
8041191	11539	4210300000	108		W N WADDELL TR 1 469	1.0	EL PASO NATURAL GAS CO
8041187	11534	4210300000	108		W N WADDELL TR 3 #1025	1.0	EL PASO NATURAL GAS CO
* ADDITIONAL PURCHASERS(SEE END OF LIST)							

FERC NO	JA DKT NO	API NO	SECT	DEN	WELL NAME	PROD	PURCHASER
8041193	11712	4210330200	108		W N WADDELL TR 3 #1055	2,0	EL PASO NATURAL GAS CO
8041192	11649	4210330263	108		W N WADDELL TR 3 1079	1,0	EL PASO NATURAL GAS CO
WAY & MILLS				RECEIVED: 06/19/80 JA: TX			
8041083	08509	4241330643	102		R I CASE #1	100,0	NORTHERN NATURAL GAS CO
WOOD ENTERPRISES INC				RECEIVED: 06/19/80 JA: TX			
*8041114	09693	4225331083	103		RRC 14093 & WELL #2	63,9	PALO DURO PIPELINE CO
WORLD PRODUCERS INC				RECEIVED: 06/19/80 JA: TX			
8041444	17389	4236731221	102		ELLIS A NO 2	170,0	NATURAL GAS PIPELINE CO OF AMERICA

OTHER PURCHASERS

8041071	COLUMBIA GAS TRANSMISSION CO
8041114	RIO RICHARDSON CARBON & GASOLINE CO
8041126	RAEL GAS CO
8041127	RAEL GAS CO
8041128	RAEL GAS CO
8041129	RAEL GAS CO
8041130	RAEL GAS CO
8041131	RAEL GAS CO
8041132	RAEL GAS CO
8041133	RAEL GAS CO
8041134	RAEL GAS CO
8041135	RAEL GAS CO
8041136	RAEL GAS CO
8041137	RAEL GAS CO
8041138	RAEL GAS CO
8041139	RAEL GAS CO
8041217	PANHANDLE EASTERN PIPELINE CO
8041316	PANHANDLE EASTERN PIPE LINE CO
8041343	NATURAL GAS PL CO
8041354	PHILLIPS PETROLEUM CO
8041364	NORTHERN NATURAL GAS CO
8041365	NORTHERN NATURAL GAS CO
8041366	NORTHERN NATURAL GAS CO
8041373	H W BASS & SONS INC
8041433	TEXAS UTILITIES FUEL CO

[FR Doc. 80-21438 Filed 7-17-80; 8:45 am]
BILLING CODE 6450-85-C

[Project No. 3219]

Duquesne Light Co.; Application for Preliminary Permit

July 11, 1980.

Take notice that Duquesne Light Company (Applicant) filed on June 18, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3219 to be known as Montgomery Hydroelectric Project located on the Ohio River at the U.S. Army Corps of Engineers' Montgomery Locks and Dam in Beaver County, Pennsylvania. Correspondence with the Applicant should be directed to: Mr. Earl J. Woolever, Vice President, Engineering and Construction division Duquesne Light Company, 435 Sixth Avenue, Pittsburgh, Pennsylvania 15219.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Montgomery Locks and Dam on the Ohio River.

The project would consist of: (1) a powerhouse to be located at the north (right) abutment of the existing dam; (2) three turbine-generator units installed in the powerhouse with a proposed total generating capacity of 54 MW; (3) an approach channel; (40 a tailrace channel; and (5) other appurtenances. Applicant estimates the annual generation would average about 190 million kWh.

Purpose of Project—Project energy would be sold to Applicant's customers in the service area of its electrical distribution system.

Proposed Scope and cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform surveys and geologic investigations, negotiate with the U.S. Army Corp of Engineers for water rights at the project, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local agencies concerning the potential environmental effects of project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be less than $300,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee unertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Allegheny Electric Cooperative's and Ohio Edison Company's applications filed on September 17, 1979, and November 5, 1979, Projects Nos. 2971 and 2988, respectively, under 18 CFR 4.33 (*as amended*, 44 FR 61328, October 25, 1979), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before August 22, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21414 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CI73-181]

Ensearch Exploration, Inc.; Petition for Declaratory Order

July 11, 1980.

Pursuant to 18 CFR § 1.7(c) of the Commission's Rules of Practice and Procedure, Ensearch Exploration, Inc. (Ensearch) (formerly Lone Star Producing Company) petitioned for a declaratory order stating that certain revenues collected are not subject to any refund obligation. The rates in question while consistant with the applicable area rate ceiling, were in excess of the rate on file with the Commission. The rates, through a company oversight, were not the subject of a routine rate increase application. The amount of refund is approximately $15,000, according to Ensearch.

The subject sale was from certain acreage in Beckham and Washita Counties, Oklahoma to NI-Gas Supply, Inc. (NI-Gas) under a January 16, 1970 contract designated as FPC Rate Schedule No. 2 of Glover Hefner Kennedy Oil Company (Ensearch's predesessor-in-interest). The Commission on August 31, 1973 issued Lone Star (Ensearch's prior name) a permanent certificate at 15 cents/Mcf and thereaftr on December 7, 1973 Lone Star filed a revised billing statement with the Commission reflecting the 15 cents/Mcf rate. According to the company, a rate increase petition to 21 cents/Mcf which it intended to file at the same time, was through inadvertance never filed. The applicable Hugoton-Anadarko area rate at the time was 21 cents/Mcf. However, the buyer-NI-Gas-continued to pay Lone Star 21 cents/Mcf. According to Ensearch, this omission came to light in late 1976 when it filed for another rate increase pursuant to Opinion No. 749.

Any person desiring to be heard or to make any protest with reference to said petition should on or before August 8, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a

petition to intervene in accordance with the Commission Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21415 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3182]

Hydro Development Group Inc.; Application for Preliminary Permit

July 10, 1980.

Take notice that Hydro Development Group Inc. (Applicant) filed on May 21 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3182 to be known as Port Leyden located on the Black River in the Town of Port Leyden, Lewis County, New York. Correspondence with the Applicant should be directed to: Mr. Mark Quallen, Box 58, Locke Street, Dexter, New York 13634.

Project Description—The proposed project would consist of: (1) an existing 10-foot high and 75-foot long concrete dam; (2) a reservoir with a surface area of 10 acres and with a storage capacity of 45 acre-feet at normal surface elevation of 871.6 feet m.s.l.; (3) an existing 20-foot wide, 60-foot long and 20-foot high concrete flume on the east (right) side of the dam leading to; (4) a 60-foot wide and 150-foot long abandoned lumber mill, a portion of which will be used as a powerhouse containing two rebuilt hydroelectric units rated at 500 kW each; and (5) appurtenant facilities connecting to an existing 200-foot long 23-kV transmission line.

Purpose of Project—Project energy would be sold to Niagara Mohawk Power Corporation. Applicant estimates the annual generation would average about 6,000,000 kWh.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform a hydrological study, evaluate the intake, flume, and dam structures, develop designs and specifications for the powerhouse and equipment, study the project environmental impact, and determine the economic and financial feasibility of the proposal. Upon determination of feasibility, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the work under the permit would approximate $48,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before September 12, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than November 12, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (*as amended* 44 Fed. Reg. 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), (*as amended* 44 Fed. Reg. 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before September 12, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21416 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-2-14 (PGA 80-2)]

Lawrenceburg Gas Transmission Corp.; Notice of Proposed Change in FERC Gas Tariff

July 10, 1980.

Take notice that on June 30, 1980 Lawrenceburg Gas Transmission Corporation (Lawrenceburg) tendered for filing three (3) revised gas tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, all of which are dated as issued on June 27, 1980, proposed to become effective August 1, 1980, and identified as follows:

Twenty-first Revised Sheet No. 4
Twentieth Revised Sheet No. 18
Second Revised Sheet No. 4-B

Lawrenceburg states that its revised tariff sheets were filed under its Purchased Gas Adjustment Provision and Incremental Pricing Surcharge Provision.

Copies of this filing were served upon Lawrenceburg's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21417 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-2-15 (PGA80-3) (IPR80-3) and (LFUT80-2)]

Mid Louisiana Gas Co.; Proposed Change in Rates

July 10, 1980.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on July 1, 1980

tendered for filing as a part of First Revised Volume No. 1 of its FERC Gas Tariff, Thirty-Seventh Revised Sheet No. 3a, (Alternate Thirty-Seventh Revised Sheet No. 3a), Fourth Revised Sheet No. 3b and Second Revised Sheet No. 3c to become effective August 1, 1980.

Mid Louisiana states that the purpose of the filing is to reflect a Purchased Gas Cost Current Adjustment and a Purchased Gas Cost Surcharge, resulting in a rate after current adjustments of 335.09¢. The filing also adjusts the Louisiana First Use Tax Surcharge. The filing is being made in accordance with Sections 19 and 20 of Mid Louisiana's FERC Gas Tariff and the Purchased Gas Cost Current Adjustment reflects rates payable to Mid Louisiana's suppliers during the period August 1, 1980 through January 31, 1981.

Alternate Thirty-Seventh Revised Sheet No. 3a was submitted for filing in the event the rates requested by Mid Louisiana in it's filing at Docket No. RP80-113 are not effective on August 1, 1980.

Copies of the filing have been mailed to Mid Louisiana's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21418 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-425]

Mississippi River Transmission Corp.; Application

July 10, 1980.

Take notice that on June 23, 1980, Mississippi River Transmission Corporation (Applicant), P.O. Box 14521, St. Louis, Missouri 63178, filed in Docket No. CP80-425 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during an indefinite period commencing October 8, 1980, and operation of facilities to enable Applicant to take into its certificated pipeline system natural gas supplies, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant and supplies of natural gas from Applicant's own production or acquired for system supply under Sections 311 or 312 of the Natural Gas Policy Act of 1978.

Applicant states that the total annual cost of the proposed facilities would not exceed $4,000,000, with no single onshore project to exceed a cost of $1,000,000. Applicant consequently estimates that the total cost of facilities to be constructed during the period October 18, 1980, through December 31, 1980, would not exceed $928,000. The cost of the proposed facilities would be financed from available funds, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 31, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21419 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. EL80-8 (Phase I & II)]

Montaup Electric Co.; Order Accepting Section 2/16(b) Application for Filing, Granting Interventions, and Providing Hearing Procedures

Issued July 11, 1980.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, Matthew Holden, Jr., and George R. Hall.

Montaup Electric Company (Montaup) on December 13, 1979 filed an application for approval to include construction work in progress costs (CWIP) in its rate base. The application is founded upon an allegation of severe financial difficulty [1] arising from the large cash requirements of Montaup's construction program.

Montaup is the power bulk supply affiliate of Eastern Utilities Associates (EUA), a public utility holding company registered under the Public Utility Holding Company Act of 1935.[2] Montaup provides all of the power supply requirements of EUA's wholly-owned retail distribution subsidiaries: Eastern Edison Electric Company (Eastern Edison) [3] and Blackstone Valley Electric Company. Montaup also supplies wholesale service to four non-affiliates: Pascog Fire District, Newport Electric Corporation, Tiverton Division of Narragansett Electric Company, all

[1] The filing is pursuant to the Commission's Order No. 555, issued November 22, 1966, and its implementing regulation, 18 CFR 216 (1977); all references to CWIP relief in this order are to the emergency relief for severe financial difficulty provided in 18 CFR 2.16(b) (1979).

[2] 15 U.S.C.A. 79 (1971).

[3] Eastern Edison owns all of Montaup's permanent securities.

located in Rhode Island, and town of Middleborough, Massachusetts.

Montaup's Original Application

Montaup states that its alleged severe financial difficulty is the result of insufficient cash flow to finance power plant purchases to meet peak load requirements. Montaup predicts annual growth of its peak load of 2.9 percent, so that its 1978 peak of 671.7 MW will increase to 962 MW in 1988. To meet peak loads after 1982, Montaup states that it must increase its present interest in the Seabrook Power Plant Project of Units Nos. 1 [4] and 2 [5] from 1.9 percent to 5 percent [6] and must have an ownership interest of 4.02 percent in Millstone Unit No. 3 [7] and a 2.15 percent interest in Pilgrim Unit No. 2.[8] Montaup states that without a 5 percent interest in Seabrook units it will have insufficient capacity to meet its NEPOOL reserve obligation starting with the 1982 power year.[9] Even with the Seabrook, Millstone and Pilgrim interests, Montaup states that its reserves will be barely adequate during 1980–85 and will be deficient after 1985. Montaup further states that its cash flow will be insufficient to cover its operating needs as a result of those power plant investments. Montaup predicts cash expenditures during 1980–85 associated with its investments in the four plants to more than double [10] its present capitalization of $150,000,000. Without CWIP emergency relief, Montaup states that its internal cash generation will be negative during 1980–84, assuming that the Company earns at least a 13 percent return on equity. During 1980–85, AFUDC is predicted to be over 100 percent of its earnings available for common stock and internal cash generation is predicted to be insufficient by 1982 to cover any common stock dividend. Finally, Montaup states that without permission to include CWIP in rate base it will be necessary to reduce its commitment to a 5 percent interest in the Seabrook Project to a level which can be financed without emergency CWIP relief. This, Montaup states, is not in the public interest since no comparable alternative to Seabrook power is available to meet Montaup's loads after 1982.

In the application Montaup does not specify the amount of CWIP which it proposes to include in rate base. there is no development from a test period cost of service study of a specifically proposed CWIP-based rate, nor of a claimed rate of return in association with emergency CWIP relief. No documentary or testimonial support of that nature is filed with the application. While Montaup claims that it will reduce its proposed Seabrook interest if it does not obtain CWIP relief, the amount of the reduction is not specified. Nor does Montaup describe the alternatives to Seabrook participation which the Company claims have been explored, exhausted and found not to be comparable to Seabrook.

Montaup seeks a phased and expedited procedural schedule. As in past Commission's orders,[11] Montaup asks the Commission to expedite its review of the emergency relief application by setting for hearing the issues related to CWIP relief and rate of return in a first phase hearing. This procedure would have Montaup file CWIP compliance rates to become effective subject to refund only after a final order was issued by the Commission in the first phase. All remaining issues, including cost of service, would be tried in the second phase, to begin after the issuance of the final CWIP order on rehearing. Because Montaup predicts its severe financial difficulty to continue only until the second of the two Seabrook units goes in-service in 1985,[12] it seeks to include CWIP in rate base from the date of the Commission's final order granting its CWIP application [13] until rates become effective which include Montaup's share of the second Seabrook unit in rate base as plant-in-service. In the interim, Montaup would from time to time make subsequent rate change filings to increase the level of CWIP in rate base, these filings to be accompanied by evidentiary showings that the severe financial difficulty found to exist in the Commission's final order in the first phase of this proceeding continues to exist; and these filings to be made effective subject to refund of any amounts the Commission may find unlawful in orders issuing out of those proceedings.

Petitions, Protests, and Comments of the Public

On January 28, 1980, Middleborough protested the application and petitioned to intervene. Middleborough's protest is based upon the ground that Middleborough's entitlements [14] in the same Seabrook, Millstone and Pilgrim units that Montaup is acquiring will reduce, if not eliminate, Middleborough's capacity requirements from Montaup at or about the time when the Seabrook units go in-service.[15] Therefore, Middleborough states that Montaup's rates to Middleborough should not include CWIP in rate base. Otherwise, Middleborough will pay twice for redundant interests in those same power plants. If CWIP relief is granted to Montaup, Middleborough requests separate non-CWIP rates for itself, as its generating plans exclude Montaup as a supplier of capacity.

On February 7, 1980, Montaup filed an answer to Middleborough's pleading. Montaup conceded that the application of emergency CWIP relief to Middleborough and to any other partial requirements customers who will reduce or eliminate their capacity requirements from Montaup contemporaneous with the in-service dates of the new units is a legitimate subject of investigation. Montaup points out, however, that no customer will be charged CWIP rates until a final order with only prospective application is issued. Therefore, the question of the responsibility of partial requirements customers, if any, for paying CWIP rates may be considered in the first hearing phase and may be decided by the Commission in its final order in that phase without any party having been prejudiced by the deferral until then of a resolution of this aspect of the cost-of-service responsibility of partial requirements customers. We agree.

On January 29, 1980, the Attorney General of Rhode Island and the Rhode Island Division of Public Utilities and Carriers (Rhode Island Authorities) filed a joint petition to intervene. They oppose in general terms Montaup's application as failing to state adequate grounds for the relief sought.

[4] Scheduled to be in service in 1983.

[5] Scheduled to be in service in 1985.

[6] Montaup presently has pending before the Massachusetts Department of Public Utilities (MDPU) an application for approval to acquire a 3.1 percent additional ownership interest in the Seabrook Project from Public Service Company of New Hampshire (1 percent); Connecticut Light and Power Company (CL&P) (1.035 percent) and United Illuminating Company (UIC) (1.065 percent).

[7] Scheduled to be in service in 1986.

[8] Scheduled to be in service in 1987.

[9] November 1, 1982—October 31, 1983.

[10] By $154,000,000, of which $122,000,000 is for the Seabrook units.

[11] *Public Service Company of New Hampshire*, Docket Nos. EL78–15 and ER78–339 (order issued June 9, 1978); *Public Service Company of New Mexico*, Docket Nos. ER78–337, ER78–338 (order issued June 30, 1978); *El Paso Electric Company*, Docket Nos. ER77–478 and ER78–520 (order issued July 19, 1977).

[12] When the percentage of CWIP to total plant investment is predicted to decrease to 42 percent from 67 percent (1982).

[13] Presumably, in its compliance rate filing of CWIP-based rates, Montaup would request that date as the effective date of the CWIP compliance rates.

[14] Equal to 75% of Middleborough's present peak load.

[15] Middleborough states that its contract with Montaup may terminate as soon as November 1, 1983 or upon any following November 1 date with 24 months prior notice.

On February 26, 1980, the U.S. Office of Consumer Affairs (USOCA) filed a petition to intervene. USOCA states that Montaup failed to show that it is in severe financial difficulty or that it exhausted available alternatives to CWIP relief, as required in Order No. 555. USOCA states that Montaup did not show that ownership interests in the four power plants are necessary; will be beneficial; or that acquisition of these interests actually will occur; or that licensing of the four nuclear plants will occur in advance of their predicted in-service dates. Further, USOCA objects to the inclusion of CWIP associated with Pilgrim No. 2, since construction has not begun on that unit.

On April 29, 1980, a petition to intervene was filed by the National Consumer Law Center on behalf of Ms. Patricia Ferrevia and Ms. Ruth Coward, described as residential class customers of Eastern Edison. Jurisdictional rate increases granted to Montaup, as they affect Eastern Edison, are relayed to Eastern Edison's customers through the latter's purchased power clause. Montaup's application is opposed as an inadequate showing of load growth and concommitant need for the new Seabrook, Millstone and Pilgrim capacity and as an inadequate showing of severe financial difficulty.

By letter of January 29, 1980, Honorable Paul E. Tsongas, U.S. Senator from Massachusetts, recommended that the Commission carefully scrutinize Montaup's forecast of annual load growth in view of downward economic trends in New England. Senator Tsongas also recommended that the Commission investigate other investment opportunities which may be available to Montaup with smaller capitalization and social costs, such as load growth management techniques, conservation programs and development of renewable resources. Senator Tsongas did not seek to intervene as a party in this proceeding.

The issues raised in the petitions and comments are appropriate for resolution in the hearings to be convened in this docket, rather than by summary disposition or rejection of the filing here. It appears to be in the public interest that all petitions to intervene be granted.

On April 14, 1980, Montaup filed a motion for prompt issuance of an order setting its application for hearing. Montaup's states that once regulatory approvals are obtained [16] for its acquisitions of additional interests in the Seabrook Project from CL&P and UIC, Montaup will be obligated to make lump sum catch-up payments to the sellers. Montaup states that the financial drain of that project could throw the Company, without prior CWIP relief, into a financial crisis. Hence, Montaup requests an expedited procedural schedule with the administrative law judge's Initial Decision to be issued by October 31, 1980; the Commission's Opinion by February 2, 1981; and the Commission's final order on rehearing by April 1, 1981.

[16] Montaup does not predict when MDPU will act.

Supplemental Statements to Montaup's Application

On April 16, 1980, Montaup filed a letter in response to an information request from the Commission's Chief Advisory Counsel. In its letter, Montaup explained the absences from the application of a test year cost of service study and of quantified CWIP rates as due to the Company's inability, when it filed the application, to identify test year costs for what are unspecified CWIP rates not proposed to become effective until 1981. However, Montaup stated that it would file a direct case in this docket showing, first, the condition of its cash flow without CWIP relief and, second, the condition of its cash flow with the CWIP relief sought. The direct case would also show the increase in revenue level necessary to produce the requested relief. In its letter, Montaup further explained the procedure it envisions for obtaining CWIP relief. If severe financial difficulty is found to exist in phase one of this docket, the Commission would determine in its final order on rehearing the Company required level of cash generation, expressed as a percentage of capital requirements or as a coverage ratio, and would determine as well the rate of return which the Company requires in conjunction with that level of cash generation. The Commission, then, in its order in phase one would direct the Company to file compliance rates including in rate base an amount of CWIP, which, together with the approved overall rate of return, would produce the required level of cash flow based upon test period costs. That test period cost of service study would either be one prepared for the compliance filing or a cost of service study underlying existing rates, if prepared recently enough to reasonably reflect current costs, as affected by the findings on cash flow and cost of capital in phase one. These compliance rates would become effective prospectively and subject to refund pending a final order on rehearing by the Commission in phase two on all remaining issues regarding Montaup's test period cost of service. Thus, the rates and refunds, if any, approved in phase two would reflect the Commission's rate of return and cash flow findings and related CWIP relief determination in phase one as well as the level of test period cost of service approved in phase two.

On June 5, 1980, Montaup filed a further motion renewing its earlier motion for a prompt order and expedited hearing. Accompanying this motion was the direct case promised in Montaup's letter of April 16, 1980. Through this testimonial and exhibit material Montaup specifies the level of CWIP relief sought as equal to 35% of the total capital cash requirements of EUA, this in conjunction with a 17.25% return on common equity and a 12.89% return overall. A conventional (non-CWIP) rate change filing is to be filed by August 1, 1980, in which a 19.1% return on equity will be claimed.

Discussion

It appears that a hearing is necessary to determine whether Montaup may experience severe financial difficulty in the near future due to the magnitude of its construction program and, if so, whether emergency CWIP relief is warranted. This hearing should be conducted in an expedited manner, consistent with the creation of an evidentiary record from which the Commission can make findings and determinations for which there is substantial evidence, in order that any CWIP relief which may be warranted can be granted in a timely manner.

We shall order a phase one hearing in this docket to determine whether Montaup's application meets the severe financial difficulty test of § 2.16(b) of our regulations and, if so, the level of CWIP relief which is justified to alleviate any severe financial difficulty which may exist. Pursuant to the Commission's final order on rehearing in phase one, which also shall determine the just and reasonable rate of return associated with any granting of CWIP relief, the Company will be ordered to file compliance rate schedules reflecting prospectively the Commission's final order granting any CWIP relief plus the allowed rate of return. However, these rates shall be subject to refund inasmuch as is necessary to reflect the overall cost of service of the Company found to be just and reasonable in the Commission's subsequent final order in the second phase.[17] Regarding future rate filings in which the rates finally established in this docket are sought to be changed by rates also including

[17] Montaup's conventional rate change filing, expected in August 1980, may be consolidated in this docket for investigation in the phase two hearing.

emergency CWIP relief, the Company must either make a *de novo* showing of severe financial difficulty or build upon any final finding of severe financial difficulty made in this docket.[18]

A second phase hearing shall subsequently be convened to consider all aspects of the Company's cost of service not considered in phase one. The rate determinations made in phase two shall be merged in the Commission's final order in that phase with the determinations previously made in phase one. This will yield final rates in this docket and will determine final refunds both of any CWIP rates prospectively made effective in phase one and of any rates which may be made effective subject to refund in phase two.[19]

The Commission Orders

(A) Any requests or motions not granted in this order are denied.

(B) Montaup's submittal of December 13, 1979, as supplemented by its case-in-chief, submitted June 5, 1980, is accepted for filing as an application for CWIP relief under 18 CFR 2.16(b) (1979).

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Organization Act and the Federal Power Act, and pursuant to the Commission's rules of practice and procedure and its regulations under the Federal Power Act (18 CFR, Chapter I), public hearings shall be held concerning the application which is the subject of this docket.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall be assigned to preside in this proceeding and is authorized to establish procedural dates in accordance with this order and to rule on all motions (except motions to consolidate or to sever and motions to dismiss), as provided for in the Commission's rules of practice and procedure.

[18] See, *Public Service Co. of New Mexico*, Docket Nos. ER79-478 and ER79-479 (order issued August 18, 1979), mimeo at 4.

[19] No rates and underlying cost of service pursuant to Part 35 of our regulations have been filed in this docket and, therefore, no rates are to be made effective by this order. However, see note 18, above, in which we indicate that non-CWIP rates may yet be made effective under Section 205 of the Federal Power Act in phase two of this docket. In that event, by separate order we shall direct that phase two [see ordering paragraph "(E)," below], be initiated prior to our final order on rehearing in phase one. However, in the event that no CWIP relief is found warranted in phase one and no conventional rates are filed in phase two, no phase two shall be initiated.

(E) The issues in this docket shall be investigated in two separate hearing phases. In phase one, an expedited hearing concerning CWIP relief and associated rate of return shall be conducted. A prehearing conference to establish expedited procedural dates in phase one shall be convened by the presiding judge within 15 days from the date of this order. In the event CWIP relief is found warranted, a phase two, to be initiated after the Commission's final order on rehearing in phase one, shall be initiated for the investigation of all remaining cost of service issues.

(F) Middleborough, Rhode Island Authorities, USOCA, Ms. Ferreria and Ms. Coward are hereby permitted to intervene in this proceeding subject to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act: *Provided, however,* That participation of such intervenors shall be limited to the matters affecting asserted rights and interests specifically set forth in the petitions to intervene; and, *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved by any orders entered in this proceeding.

(G) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21448 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-2-16]

National Fuel Gas Supply Corp.; Proposed PGA Rate Adjustment

July 10, 1980.

Take notice that on June 30, 1980, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Substitute Thirty-Second Revised Sheet No. 4 proposed to be effective August 1, 1980.

National states that the purpose of this revised tariff sheet is to adjust National's rates pursuant to Article 17 (PGA) of the General Terms and Conditions. National further states that Substitute Thirty-Second Revised Sheet No. 4 reflects an increase in National's rates of 14.12¢ per Mcf.

It is stated that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before July 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants party to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21420 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-326]

New England Power Co.; Order Accepting Tariff Amendment and Executed Rate Schedule Supplements, Granting Waiver, and Instituting Investigation

Issued July 2, 1980.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, and George R. Hall.

On April 3, 1980, New England Power Company submitted for filing as an initial rate an amendment to its FERC Tariff No. 2. The amendment provides for unit power entitlements service from NEPCO's 600 MW Bear Swamp pumped-storage hydroelectric station. A rate of $1.83 per kw per month is specified as are the terms and conditions under which NEPCO will make the service available.[1] NEPCO also submitted executed supplements to its service agreements with thirteen customers taking this service[2] and an unexecuted service agreement for the Town of Shrewsbury. NEPCO states it has been informed by Shrewsbury that the Town does not intend to either take or pay for Bear Swamp service as of March 1, 1980. NEPCO characterizes Shrewsbury's refusal to execute the service agreement supplement as an effort to repudiate

[1] Related transmission service will be provided at a rate of $0.50 per kw per month as currently specified under a separate service provision of the tariff.

[2] The Massachusetts Towns of Ashburnham, Danvers, Georgetown, Hingham, Ipswich, Littleton, Mansfield, Marblehead, Middleton, Peabody, Templeton, Wakefield, and West Boylston. The sales data submitted by NEPCO indicates that the Towns of Groton, Holden, Hull, Sterling and Paxton will also take Bear Swamp service; however, executed service agreements for these towns have not been submitted. *See* Attachment A for rate schedule designations.

part of the town's 1979–1980 unit power elections made in November 1978 pursuant to an earlier settlement agreement in Docket No. ER76–158.[3]

NEPCO requests waiver of the Commission's notice requirements under section 35.11 of the regulations to permit the proposed rates to become effective as of November 1, 1979. NEPCO states that a change in its automated billing system required modification of the instant submittals and thus delayed the filing. In connection with the request for waiver, NEPCO states that any monies collected under the proposed rates shall be subject to refund pending final action by the Commission in this docket.

Notice of NEPCO's submittals was issued on April 10, 1980, with responses due on or before April 29, 1980. On April 29, NEPCO's unaffiliated resale customers[4] filed a petition to intervene. The customers do not oppose NEPCO's request for waiver of our notice requirements nor do they object to the requested November 1, 1979, effective date provided, that the proposed rates are made subject to refund. The customers also mention the dispute between NEPCO and the Town of Shrewsbury concerning the Town's obligation, if any, to purchase Bear Swamp service. The customers state that discussions between NEPCO and Shrewsbury are continuing and may resolve the dispute. If a negotiated resolution is not possible, then Shrewsbury and the customers "do not accept the filing against Shrewsbury of this tariff."[5] By letter dated May 23, 1980, NEPCO requested that the Commission defer consideration of its filing for thirty days in light of the discussions with the Town of Shrewsbury. NEPCO stated that the Town concurred in the request.

Discussion

Review of NEPCO's submittals indicates that the proposed rates, terms and conditions for the Bear Swamp service are acceptable. We also note that the customers' petition to intervene reflects a general acceptance of such rates, terms and conditions. Accordingly, for good cause shown we shall grant NEPCO's request for waiver of our notice requirements and accept NEPCO's tariff amendment and executed service agreements for filing, all to become effective as of November 1, 1979. Because we find that the proposed rates are cost-justified they shall not be subject to refund.[6] We believe that this action is consistent with the conditional agreement of the customers to the waiver despite the lack of a refund provision in this order. The customers in essence agreed to the waiver of prior notice on condition that they receive the same protection that they would have had if the rate had been timely filed—*viz.*, a refund provision pending a final Commission decision if it were found that the rates might be unjust and unreasonable and the matter were set for hearing. Since the customers have raised no allegations that the rate level is excessive, and the Commission has found the rates to be cost justified, the customers have received the protection they requested.

In light of the dispute between NEPCO and the Town of Shrewsbury, we shall conditionally accept the unexecuted service agreement for Shrewsbury pending an investigation under the Federal Power Act of Shrewsbury's obligations, if any, to purchase Bear Swamp unit power. Should it be determined that, as of a given date, Shrewsbury is not required to take Bear Swamp unit power, then NEPCO will be required to refund with interest any monies collected under any contract or service agreement found to be invalid or otherwise of no effect. Service agreements for the Towns of Groton, Holden, Hull, Sterling and Paxton (*see* n. 2, *supra*) shall be accepted when executed by the towns and submitted for filing by NEPCO and shall be made effective as of November 1, 1979.

The Commission Orders

(A) NEPCO's request for waiver of our notice requirements is granted for good cause shown.

(B) NEPCO's tariff amendment and executed service agreement supplements are accepted for filing and made effective as of November 1, 1979. The unexecuted service agreement for the Town of Shrewsbury is conditionally accepted pending the investigation indicated in Ordering Paragraph (C), and is made effective as of November 1, 1979. Service agreements for the Towns of Groton, Holden, Hull, Sterling and Paxton shall be accepted when executed by the towns and submitted for filing, and shall be made effective as of November 1, 1979.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held to determine whether the Town of Shrewsbury is obligated to purchase Bear Swamp unit power.

(D) The resale customers, including the Town of Shrewsbury, shall be permitted to intervene in this proceeding *Provided, however,* That their participation shall be limited to the allegations as set forth above; and Provided further, that their admission shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders entered by the Commission in this proceeding.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge shall convene a conference to delineate issues within 30 days after issuance of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding administrative law judge is hereby authorized to establish all procedural dates and to rule upon all motions (except motions to consolidate and sever and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21449 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[3] NEPCO and certain of its customers entered into this settlement agreement as of October 15, 1975. The agreement was filed on March 29, 1976, and approved by the Federal Power Commission by order issued August 30, 1976.

[4] The resale customers include the towns listed in footnote 2, *supra* together with Shrewsbury. The Towns of Hudson, Merrimac, North Attleboro and Princeton, Massachusettes, Littleton, New Hampshire, the Manchester Electric Company, and the New Hampshire Electric Cooperative Inc. are also members of the resale customers group but are not now taking Bear Swamp service.

[5] We interpret this statement to mean that, in the event that the discussions do not resolve the contractual question, the Commission should initiate an investigation into the contractual relations between NEPCO and Shrewsbury.

[6] We find, however, that NEPCO's submittals are not initial rate schedules as they merely provide for an additional type of unit power under NEPCO's existing tariff. As such, the proposed filings are changes in rate schedules. Determinations of this type as to the character of NEPCO's filings are within the Commission's technical expertise. See, *Florida Power & Light Company* v. *F.E.R.C.*, Nos. 78–2249 and 78–2302, ——, F.2d —— (D.C. Cir. January 24, 1980).

[Docket No. CP77-473]

Northern Natural Gas Co., Division of InterNorth, Inc.; Petition To Amend

July 10, 1980.

Take notice that on June 17, 1980, Northern Natural Gas Company,

Division of InterNorth, Inc. (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP77-473 a petition to amend the order issued December 16, 1977, as amended September 13, 1979, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of natural gas for Libbey-Owens-Ford Company (LOF) for the unexpired term of the agreement between the parties, all as more fully set forth in the petition to amend.

Petitioner states that by order issued December 16, 1977, in the instant docket it was authorized to transport up to 300 Mcf of natural gas per day owned by LOF. Petitioner also states that on September 13, 1979, the Commission issued an order amending the order in the instant docket authorizing the transportation of 600 Mcf of natural gas per day. Petitioner asserts it was authorized to transport the subject gas for a two-year period.

Petitioner asserts that it has been requested by LOF to continue the transportation of gas purchased by LOF in Woods County, Oklahoma, for use at LOF's plant at Mason City, Iowa, pursuant to the terms of a June 9, 1977, agreement, as amended May 2, 1980. It is stated that the agreement between the parties provides for a term of eight years from July 13, 1978, or until terminated on six months' written notice by either party. Petitioner proposes to transport natural gas for LOF for the unexpired term of the agreement between the parties.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 31, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21422 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP79-57]

Northwest Pipeline Corp.; Rate Change

July 10, 1980.

Take notice that on July 3, 1980, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance the following revised tariff sheets as part of its FERC Gas Tariff, Original Volume No. 2:

Revised Tariff Sheets and Proposed Effective Date

First Revised Sheet No. 2, Statement of Transportation Rates, 10-01-79.
Third Revised Sheet No. 56, Rate Schedule No. X-23, 10-01-79.
Third Revised Sheet No. 122, Rate Schedule No. X-26, 10-01-79.
Second Revised Sheet No. 140, Rate Schedule No. X-27, 10-01-79.
Second Revised Sheet No. 169, Rate Schedule No. X-30, 10-01-79.
Fourth Revised Sheet No. 195, Rate Schedule No. X-32, 10-01-79.
Fifth Revised Sheet No. 243, Rate Schedule No. X-34, 10-01-79.
Second Revised Sheet No. 264, Rate Schedule No. X-35, 10-01-79.
Fourth Revised Sheet No. 283, Rate Schedule No. X-36, 10-01-79.
Fourth Revised Sheet No. 309, Rate Schedule No. X-38, 10-01-79.
Second Revised Sheet No. 384, Rate Schedule No. X-42, 10-01-79.
Second Revised Sheet No. 403, Rate Schedule No. X-43, 10-01-79.
Second Revised Sheet No. 422, Rate Schedule No. X-44, 10-01-79.
Second Revised Sheet No. 462, Rate Schedule No. X-46, 12-01-79.
Second Revised Sheet No. 480, Rate Schedule No. X-47, 10-01-79.
Second Revised Sheet No. 527, Rate Schedule No. X-49, 10-01-79.
Second Revised Sheet No. 545, Rate Schedule No. X-50, 10-01-79.
Second Revised Sheet No. 565, Rate Schedule No. X-51, 10-01-79.
Second Revised Sheet No. 592, Rate Schedule No. X-52, 10-01-79.
Third Revised Sheet No. 629, Rate Schedule No. X-53, 10-01-79.
Third Revised Sheet No. 652, Rate Schedule No. X-53, 10-01-79.
Third Revised Sheet No. 658, Rate Schedule No. X-54, 10-01-79.
Second Revised Sheet No. 681, Rate Schedule No. X-55, 12-10-79.
Second Revised Sheet No. 682, Rate Schedule No. X-55, 12-10-79.
Second Revised Sheet No. 707, Rate Schedule No. X-56, 11-28-79.
Third Revised Sheet No. 708, Rate Schedule No. X-56, 11-28-79.
Second Revised Sheet No. 748, Rate Schedule No. X-58, 10-01-79.
Second Revised Sheet No. 791, Rate Schedule No. X-61, 10-01-79.
Second Revised Sheet No. 824, Rate Schedule No. X-63, 10-01-79.
Second Revised Sheet No. 831, Rate Schedule No. X-64, 10-19-79.
Second Revised Sheet No. 832, Rate Schedule No. X-64, 10-19-79.
First Revised Sheet No. 851, Rate Schedule No. X-65, 03-01-80.

As more fully explained in the instant filing, the tariff sheets incorporate the current gathering and transportation rates for each related rate schedule as accepted by the Commission in its letter order of May 15, 1980 approving a "Stipulation and Agreement in Settlement of Rate Proceedings" at Docket No. RP79-57 as modified.

The proposed effective date applicable to each revised tariff sheet is set forth in the above listing. Northwest began collecting the increased transportation and gathering rates proposed in Docket No. RP79-57 on October 1, 1979 subject to refund under the tariff sheets listed above having a proposed effective date of October 1, 1979. For those tariff sheets listed above having a proposed effective date subsequent to October 1, 1979, such dates reflect the date Northwest first began collecting, subject to refund, the increased rate proposed in Docket No. RP79-57 pursuant to Commission orders.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21423 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 1121]

Pacific Gas & Electric Co.; Application for Amendment of License

July 11, 1980.

Take notice that Pacific Gas and Electric Company (PG&E) filed, on December 4, 1979, an application for amendment of the license for its constructed Battle Creek Project, FERC No. 1121. The project is located on the upper portion of South Battle Creek, Tehama County, California. Correspondence with PG&E should be addressed to: Mr. W. M. Gallavan, Vice President—Rates and Valuation, Pacific

Gas and Electric Company, 77 Beale Street, San Francisco, California 94106.

Project Description—PG&E seeks to amend the license for Project No. 1121 to authorize the following modifications to the South Battle Creek Canal Diversion Dam: (1) replace the existing timber crib dam with a metal binwall dam; and (2) replace the existing wood fish ladder with a new fish ladder.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a pettion to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be filed on or before August 25, 1980. The Commission's address is: 825 North Capitol Street NE, Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21424 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 619]

Pacific Gas & Electric Co.; Application for Amendment of License

July 11, 1980.

Take notice that the Pacific Gas and Electric Company (PG&E) filed on April 14, 1980, an application for an amendment of the license for its constructed Bucks Creek Project, FERC No. 619. The project is located on Milk Ranch, Bucks, and Grizzly Creeks in Plumas County, California. Correspondence with the Applicant should be directed to: Mr. W. M. Gallavan, Vice President—Rates and Valuation, Pacific Gas and Electric Company, 77 Beale Street, Room 1087, San Francisco, California 94106.

Description—PG&E seeks to amend the license for Project No. 619 to authorize the continued use of the 2.0-foot flashboards installed on the Bucks Lake Dam spillway and 2.2-foot flashboards on the Three Lakes Dam spillway. Authorization for the flashboards was granted on a temporary basis by a Commission Order issued June 24, 1975.

The approval of the amendment would make available, on a permanent basis, an estimated 9,755,000 kWh of energy generation annually. No construction would be authorized by the approval of the amendment.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before September 2, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21425 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-420]

Panhandle Eastern Pipeline Co.; Notice of Application

July 10, 1980.

Take notice that on June 20, 1980, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP80-420 an application pursuant to Section 311 of the Natural Gas Policy Act of 1978 and Section 284.107(a) of the Commission's Regulations for authorization to transport natural gas for the system supply of the Quinque Oil and Gas Production Company (Quinque), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Quinque, a local distribution company, has acquired the right to purchase the gas produced from a well located in Seward County, Kansas, but lacks the necessary pipeline facilities to transport the gas to a customer in Hayne, Kansas. Pursuant to the terms of a gas purchase and transportation agreement dated October 16, 1979, Applicant states that Quinque would deliver gas to Applicant at a point on Applicant's system in Seward County, Kansas, and subsequently, Applicant would transport and redeliver the volumes to Quinque near Hayne, Seward County, Kansas.

Applicant further states that the agreement is for a period of 15 years and would entail the transportation of up to 150 Mcf per day for a distance of two miles via a 22-inch pipeline. It is also asserted that the transportation of gas on behalf of Quinque would have no adverse effect on Applicant's existing customers who are dependent on the general system supply. Applicant states that it would purchase all gas available from said well which is in excess of that sold by Quinque to Hayne.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 31, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21426 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. G-2570]

Pioneer Gas Products Co.; Application

July 10, 1980.

Take notice that on June 20, 1980, Pioneer Gas Products Company ("Pioneer"), Post Office Box 511, Amarillo, Texas 79163, filed an application for a certificate of public convenience and necessity under Section 7(c) of the Natural Gas Act for authorization to continue a certificated sale of natural gas previously rendered by Aminoil USA, Inc. ("Aminoil"), all as

more fully set forth in the application on file with the Commission and open to public inspection.

Pioneer's application indicates that, effective December 19, 1979, it entered into an assignment with Aminoil whereby Pioneer succeeded to Aminoil's rights in certain gas purchase contracts, right-of-ways, and a gas sales contract with Lone Star Gas Company ("Lone Star"). By its application, Pioneer merely seeks authority to continue the certificated sale to Lone Star.

Further, Pioneer states that it proposes to adopt Aminoil's FERC Gas Rate Schedule No. 21 providing for the sale to Lone Star and have that rate schedule redesignated as Pioneer's FERC Gas Rate Schedule No. 4.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before July 31, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21427 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3170]

Public Service Co. of New Hampshire; Notice of Application for Preliminary Permit

July 10, 1980.

Take notice that The Public Service Company of New Hampshire (Applicant) filed on May 1, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3170 to be known as the Franklin Development Project located on the Winnipesaukee River in Merrimack County, New Hampshire. Correspondence with the Applicant should be directed to: Mr. Henry J. Ellis, Vice President, Public Service Company of New Hampshire, 1000 Elm Street, Manchester, New Hampshire 03105. This application was filed as a competing application to the Franklin Winnepesaukee Project, filed by the Franklin Falls Hydro Electric Corporation on March 26, 1980, Project No. 3118.

Project Description—The proposed project would consist of new project works including: (1) a concrete gravity structure approximately 150 feet long and 22 feet high having a crest elevation of 400 feet, (USGS Datum) with an overflow spillway and stilling basin; (2) a nine-acre reservoir; (3) a 12-foot diameter penstock 3,750 feet long; (4) a reinforced concrete powerhouse containing generating facilities having a total installed capacity of 5,860 kW; and (5) appurtenant facilities. Applicant estimates that the average annual generation from this project would be 26,000,000 kWh.

Purpose of Project—Project energy developed from Project No. 3170 would be sold to Applicant's retail customers.

Proposed Scope and Cost of Studies under Permit—The Applicant seeks a preliminary permit for a period of three years, during which time it would verify topographic and geologic date, prepare economic and environmental analyses, conduct a flood study, prepare the final design of the project, and submit an application for license. Applicant estimates that the cost of studies under the permit would be $412,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Franklin Falls Hydro Electric Corporation filed on March 26, 1980 and Public Service Company of New Hampshire filed on May 1, 1980, Projects Nos. 3118 and 3170, respectively, under 18 CFR 4.33 (as amended, 44 FR 61328, October 27, 1979), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before August 22, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21428 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-50]

Sabre Refining, Inc.; Filing of Petition for Review Under 42 U.S.C. 7194

July 11, 1980.

Take notice that Sabre Refining, Inc. on June 20, 1980, filed a Petition for Review under 42 U.S.C. § 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before July 25, 1980, file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition

to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 5142, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21429 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-118]

Sea Robin Pipeline Co.; Notice of Proposed Changes in FERC Gas Tariff

July 10, 1980.

Take notice that Sea Robin Pipeline Company (Sea Robin), on June 30, 1980, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume Nos. 1 and 2. The proposed changes are based on the twelve-month period ending March 31, 1980, as adjusted, and would increase jurisdictional revenues by $15,424,062.

Sea Robin states that the revenue increase results from increases in costs for several areas of Sea Robin's operations including cost of capital and depreciation.

Sea Robin also proposes to change its calculation of sales rates to a combined basis for all of its jurisdictional sales. Sea Robin states that the change would simplify administrative procedures.

Copies of the filing have been served upon Sea Robin's jurisdictional customers and the Public Service Commission of the State of Louisiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21430 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-55]

739 Corp.; Filing of Petition for Review Under 42 U.S.C. 7194

July 11, 1980.

Take notice that 739 Corporation on June 23, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before July 25, 1980, file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 5142, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21431 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Dockets Nos. RP78-36 and RP80-49]

Southern Natural Gas Co.; Notice of Proposed Changes in FPC Gas Tariff

July 10, 1980.

Take notice that Southern Natural Gas Company (Southern) on June 30, 1980 tendered for filing proposed changes in its FPC Gas Tariff, Sixth Revised Volume No. 1 and Original Volume No. 2. The proposed changes would reduce revenues from jurisdictional sales and service by approximately $20,259,000 from rates propsoed in Southern's PGA filing to become effective on July 1, 1980.

Southern states that the filing includes revised tariff sheets with a proposed effective date of August 1, 1980. These tariff sheets are being filed pursuant to Stipulation and Agreement III in Southern's Docket No. RP78-36. Stipulation III required Southern to reduce its rates for the remainder of the locked-in period in Docket No. RP78-36 if Stipulations I, II and III were approved without modifications or conditions. The rate filing undertakes to comply with the terms of Stipulation III in Docket No. RP78-36.

Copies of the filing are being served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21432 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. GP80-103]

Mobil Producing Texas and New Mexico, Inc.; Petition To Reopen Final Well Category Determinations and Request for Withdrawal

Issued July 11, 1980.

State of New Mexico, Section 108 NGPA Determinations, Mobil Producing Texas and New Mexico, Inc., 2 Wells; [1] State of Texas, Section 108 NPGA Determinations, Mobil Producing Texas and New Mexico, Inc., 49 Wells.[2]

Take notice that on June 18, 1980, Mobil Producing Texas and New Mexico, Inc. (MPTM) filed with the Commission a petition to reopen and request for withdrawal of the final well category determinations for the wells listed in the Appendix to this Notice, pursuant to 18 C.F.R. § 275.202.

MPTM states that the New Mexico Oil Conservation Division and the Texas

[1] Listed in appendix.

[2] Listed in appendix.

Railroad Commission, respectively, made affirmative determinations that the wells listed in the Appendix qualify as stripper wells under section 108 of the Natural Gas Policy Act of 1978, and that these determinations became final forty-five days after the Commission received notice, pursuant to 18 C.F.R. § 275.202(a).

MPTM further states that subsequent to the time these determinations became final, it conducted an internal review of a number of well determination filings, and that on the basis of such review it seeks reopening of these final determinations in order that MPTM may withdraw them. The petition further states that upon Commission action to reopen and permit withdrawal, MPTM will make appropriate refunds, with interest, to purchasers of natural gas from the wells in question.

Any person desiring to be heard or to protest this petition should on or before August 18, 1980, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a protest or a petition to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. § 1.8 or 1.10). All protests filed with the Commission will be considered but will not make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

APPENDIX

New Mexico Oil Conservation Division

1. State "M" No. 7, JD79-07655
2. State "M" No. 8, JD79-07656

Texas Railroad Commission

1. T. O. Mason No. 13, JD80-28890
2. A. K. Perkins No. 2, JD80-28892
3. J. H. Beavers No. 6, JD80-28900
4. W. G. Kinzer No. 3, JD80-25926
5. W. G. Kinzer No. 4, JD80-28698
6. Burnett No. 5 JD80-
7. Ralph "A" No. 7, JD80-27142
8. Ralph "A" No. 10, JD80-27145
9. William T. Brownlee No. 3, JD80-23604
10. J. B. Bowers No. 1, JD80-23585
11. J. B. Bowers No. 4, JD80-23584
12. J. B. Bowers No. 8, JD80-23583
13. J. B. Bowers No. 10, JD80-33545
14. J. B. Bowers No. 11, JD80-23600
15. Tom Catlin No. 1, JD80-23606
16. Tom Catlin No. 2, JD80-23607
17. Tom Catlin No. 3, JD80-23608
18. Tom Catlin No. 4, JD80-23609
19. Siler Faulkner No. 2, JD80-23592
20. A. Holmes No. 3, JD80-23605
21. Texas University, Sec. 15 & 16, No. 1503, JD80-16541
22. Fee 227, Well 73, JD80-23590
23. Margaret Hodgson "D"-3, JD80-23603
24. Ed Mitchell No. 1, JD80-28898
25. J. W. Free No. 33, JD80-27356
26. A. J. Green No. 3, JD80-27358
27. J. F. Bland No. 1, JD80-28891
28. J. P. Koons No. 9, JD80-23602
29. J. P. Koons No. 11, JD80-23597
30. O. F. Smith No. 8, JD80-28895
31. O. F. Smith No. 13, JD80-28894
32. J. P. Koons No. 7, JD80-29472
33. Scurry Christian No. 1, JD80-28896
34. Scurry Christian No. 4, JD80-28899
35. J. W. Free No. 6, JD80-27395
36. J. W. Free No. 27, JD80-28897
37. J. W. Free No. 29, JD80-28889
38. Perkins-Cullum A No. 4, JD80-28699
39. Perkins-Cullum A No. 7, JD80-28701
40. Perkins-Cullum A No. 8, JD80-28700
41. Perkins-Cullum "A" No. 6, JD80-23575
42. Perkins-Cullum A-11, JD80-23574
43. Perkins-Cullum A-12, JD80-23573
44. Perkins-Cullum A-13, JD80-23589
45. Perkins-Cullum A-15, JD80-23588
46. Perkins-Cullum A-16, JD80-23587
47. Perkins-Cullum A-17, JD80-23586
48. Perkins-Cullum A-18, JD80-23598
49. Perkins-Cullum A-20, JD80-23599

[FR Doc. 80-21432 Filed 7-17-80; 8:45 am]
BILLING CODE 6450-85-M

[Project No. 3179; Project No. 3185]

Suncook Power Corp. & Pembroke Hydro Corp.; Applications for Preliminary Permit

July 10, 1980.

Take notice that Suncook Power Corporation (Applicant/SPC) and Pembroke Hydro Corporation (Applicant/PHC) filed on May 19, 1980, and May 22, 1980, respectively, competing applications [pursuant to the Federl Power Act, 16 U.S.C. §§ 791(a)-825(r)] for preliminary permits for proposed Hydroelectric projects, each to be known as the Webster-Pembroke Project; FERC Project Nos. 3179 and 3185, respectively, that would be located at the existing Webster and Pembroke Dams, owned by Thomas Hodgson and Sons, Inc., on the Suncook River, in the Towns of Pembroke and Allenstown, Merrimack County, New Hampshire. Correspondence with Suncook Power Corporation should be addressed to: Mr. Peter C. Kasch, Barkan Properties, 1330 Boylston Street, Chestnut Hill, Massachusetts 02167. Correspondence with Pembroke Hydro Corporation should be addressed to: Mr. A. Gail Staker, 10 Center Street, Concord, New Hampshire 03301, or Mr. David Holzman, 141 Milk Street, Suite 1143, Boston, Massachusetts 02109.

Project Description—The proposed project would consist of existing project works including: (1) the upper development comprised of (a) Webster Dam, a concrete structure about 250 feet long and 18 feet high, (b) a reservoir with a surface area of 34 acres and 165 acre-feet of storage at elevation 278.11 feet m.s.l. (top of 4-foot high flashboards), (c) a headrace canal and intake structure, (d) a wasteway canal, (e) twin penstocks, 6 feet and 8 feet in diameter, about 240 feet long, (f) an abandoned powerhouse, and (g) a tailrace; and (2) the lower development comprised of (a) Pembroke Dam, a granite masonry structure about 100 feet long and 23 feet high, (b) a reservoir of negligible storage at surface elevation 244.15 feet m.s.l., (c) twin steel penstocks, 8 feet in diameter and about 60 feet long, (d) a powerhouse containing two inoperative turbines having a total rated capacity of 610 horsepower, formerly used to drive a 480 kW generator (no longer existing), and (e) a short discharge sluiceway; and (3) other appurtenances. Both Applicants propose essentially similar development of the Webster-Pembroke Project based on the results of future feasibility studies of the following possible alternative modes of operation: (1) Rehabilitation of the Webster Mill upper development and the Pembroke Dam lower development to operate as separate coordinated entities; (2) Installation of new penstock(s) from the Webster Mill upper development to the Pembroke development, and operating both powerhouses; and (3) Installation of new penstock(s) from the Webster Dam to the Pembroke powerhouse, to operate only the Pembroke powerhouse, bypassing the Webster powerhouse. SPC also proposes a variation of alternative (1) with a new underground powerhouse at the Webster development. Installed capacity of the project, as proposed by SPC, could range from 1,300 to 1,700 kW with estimated maximum annual generation of 8.7 million kWh, and as proposed by PHC, installed capacity of the project could range from 1,480 to 2,500 kW with estimated maximum annual generation of 8.5 million kWh.

Purpose of Project—Both Applicants propose to sell project energy to the Public Service Company of New Hampshire.

Proposed Scope and Cost of Studies Under Permit—Both Applicants seek issuance of preliminary permits for a period of 36 months. Each Applicant proposes that it would perform data aquisition, site investigations and surveys and evaluation of feasibility of alternatives, select the best possible development alternative, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the

project, and prepare an application for FERC license, including an environmental report. Suncook Power Corporation and Pembroke Hydro Corporation estimate that cost of studies under the permit would not exceed $82,000 and $130,000, respectively.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described applications for preliminary permit. (A copy of the applications may be obtained directly from the Applicants.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before September 12, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than November 12, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (*as amended* 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33 (a) and (d), (*as amended,* 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about these applications should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before September 12, 1980. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426. The applications are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21433 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-2-17]

Texas Eastern Transmission Corp.; Proposed Changes In FERC Gas Tariff

July 10, 1980.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on July 2, 1980, tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheets:

Fifty-fourth Revised Sheet No. 14
Fifty-fourth Revised Sheet No. 14A
Fifty-fourth Revised Sheet No. 14B
Fifty-fourth Revised Sheet No. 14C
Fifty-fourth Revised Sheet No. 14D
Second Revised Sheet No. 14E

These sheets are being issued pursuant to provisions of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff contained in Section 12.4, Demand Charge Adjustment Commodity Surcharge; Section 23, Purchased Gas Cost Adjustment and Section 28, Louisiana First Use Tax Adjustment. These sheets are also being issued pursuant to Article IX, Transportation Tracker, and Article XI, Staten Island LNG Facility, of the Stipulation and Agreement in RP78-87 approved by Commission Order issued April 4, 1980.

The changes proposed consist of:

(1) Changes in the DCA Commodity Surcharges pursuant to Section 12.4, mentioned above;

(2) Increased PGA Adjustments based on the net of increases in the projected cost of gas purchased from producer and pipeline suppliers and a decrease in the Account 191 balance as of April 30, 1980 pursuant to Section 23;

(3) Projected Incremental Pricing Surcharges for the period August 1980 through January 1981 pursuant to Section 23;

(4) A reduction in the LAFUT Adjustment of $(.0025)/dth pursuant to Section 26;

(5) A reduction in the T&C by Others Adjustment to reflect reduced projected transportation and compresession costs and the estimated July 31, 1980 balance in the Deferred Transportation Cost Account pursuant to the provisions of Article IX of the RP78-87 Stipulation and Agreement; and

(6) A reduction in the rates under Rate Schedule SS to reflect a reduction in the actual cost incurred in operating and maintaining Texas Eastern's Staten Island LNG facility pursuant to the provisions of Article XI of the RP78-87 Stipulaiton and Agreement.

The proposed effective date of the above tariff sheets is August 1, 1980.

Copies of the filing are being served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21434 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP-79-153]

Texas Gas Transmission Corp.; Motion To Vacate Order

July 10, 1980.

Take notice that on May 30, 1980, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP79-153 a motion pursuant to Section 1.12 of the Commission's Rules of Practice and Procedure (18 CFR 1.12) requesting the Commission to vacate in part its order permitting and approving abandonment issued in the instant docket on April 17, 1979, all as more fully set forth in the motion to vacate which is on file with the Commission and open to public inspection.

Texas Gas states than on October 6, 1978, its authorization to transport

natural gas to: Mississippi Power and Light Company (MP&L) had expired, and, pursuant to a letter agreement dated August 1, 1978, Texas Gas and MP&L had agreed to terminate the sales contract. Texas Gas states that it was granted permission and approval on April 17, 1979, to abandon service rendered to MP&L and to abandon two sales meter runs which were utilized to render such service.

Subsequently, Texas Gas states that Michigan Consolidated Gas Company (Mich-Con) entered into certain agreements with MP&L involving the sale of gas to MP&L under the provisions of the Commission's Order No. 30. In order to prform the services described under these agreements, Mich-Con approached Texas Gas concerning the delivery of gas to MP&L utilizing the two sales meter runs owned by Texas Gas and abandoned in the instant docket, it is said.

It is stated that on May 15, 1980, the Commission issued an interim rule which extended the applicability of Order No. 30 for a period through August 31, 1980. Texas Gas asserts that in order for it to make deliveries to MP&L for the account of Mich-Con utilizing the two gas sales meter runs for which abandonment authorization was received, authorization is requested to leave these facilities in place until August 31, 1980, or such time as Order No. 30 may be extended in the future. Additionally, Texas Gas asserts that this request would be in the public interest since any necessary duplication of facilities would be avoided.

Any person desiring to be heard or to make any protest with reference to said motion should on or before July 31, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to practicipate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21435 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Dockets Nos. CP79-80, CP79-424, and CP80-17]

Trailblazer Pipeline Co., Pacific Gas Transmission Co., and Trans-Andarko Pipeline System, Successor in Interest to United Gas Pipeline Co.; Scheduling Oral Presentation Before the Commission

Issued July 11, 1980.

Notice is hereby given that an oral presentation will be held before the Commission in the above-captioned proceedings commencing at 9:00 a.m. on August 5, 1980, in a hearing room of the Commission's offices, 825 North Capitol Street, N.E., Washington, D.C. The Commission has scheduled the presentation on its own motion to assist and expedite its consideration of proposed interstate pipeline delivery systems involving the Overthrust Area.

Among the captioned applications, the Trailblazer project appears to be the most complete, and Commission action may be possible at this time which would substantially narrow or possibly resolve the outstanding issues in that docket.

Consequently, Applicants, [1] interested persons and the Commission staff are invited to comment upon:

1. The proven, probable and potential gas reserves supporting the Trailblazer project;

2. The proven, probable and potential reserves supporting other projected projects to include (a) source, (b) availability, and (c) likely division of gas supplies among the potential pipelines and the relationship of these proposed projects, if any, to Trailblazer.

3. The development of a rate condition to the certificate which would fairly assign the risk of short falls in cost recovery between the Trailblazer applicants and ultimate ratepayers, so that certification of the project could proceed with a lower proven and probable gas supply showing than would otherwise be required (for example, the appropriateness of authorizing a two-part rate design which would assure recovery of certain costs, and the manner in which the components of such a rate design would be determined, or any other rate design that that would assure a fair assignment of risk); and

4. The nature and scope of the opposition to the Trailblazer project including a specification of the material issues of fact (if any) raised by Kansas-Nebraska Natural Gas Company, together with a review of procedural approaches short of formal hearing which may be utilized to narrow or resolve the issues raised by the Kansas-Nebraska opposition.

Each Applicant and any other person desiring to participate shall submit to the Secretary of the Commission not later than July 30, 1980, (1) a request for the time deemed necessary for that person's presentation with due regard to the Commission's intention to limit the total presentation to four hours and (2) 14 copies of a statement describing the substance of that person's proposed presentation. Since this presentation will not be in the nature of an evidentiary hearing, there will be no right of cross-examination; however, the Commission may ask questions of any participant. To expedite the presentation, there shall be only one spokesperson for each project and for each other participant. Further, potential participants who may have similar interests are encouraged to agree on and sponsor one spokesperson.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21450 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[1] The Commission has been advised that Northwest Pipeline Company, El Paso Natural Gas Company, and Pacific Interstate Transmission Company have joined Pacific Gas Transmission Company as co-applicants in Docket No. CP79-424. While the application in this docket has not been amended to incorporate this change, the Commission for the purpose of this oral presentation will assume that these companies are co-applicants and that the presentation by their spokesperson will reflect the position and information of the four companies.

[Docket No. CP80-418]

Transcontinental Gas Pipe Line Corp.; Application

July 10, 1980.

Take notice that on June 19, 1980, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP80-418 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of natural gas supply facilities in Hardin County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to construct and operate approximately 2.75 miles of 6-inch pipeline and up to 4 miles of 4-inch to 6-inch pipeline in order to attach new gas supplies to its

system from five wells drilled at the East Sour Lake Field, Hardin County, Texas.

Applicant estimates the cost of the proposed facilities to be $911,400 which would be financed initially through short-term loans and available cash. Permanent financing would be undertaken as a part of an overall long-term financing program at a later date. Applicant states that no new sale or service is proposed, and construction would not increase the delivery capacity of Applicant's main transmission system.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 31, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21440 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-416]

Transcontinental Gas Pipe Line Corp.; Application

July 10, 1980.

Take notice that on June 19, 1980, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP80-416 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of natural gas supply facilities in Brooks County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to construct and operate approximately six miles of 4-inch to 6-inch pipeline in order to attach new gas supplies to its system from six wells drilled at N. Rucias Field, Brooks County, Texas.

Applicant estimates the cost of the proposed facilities to be $750,000 which would be financed initially through short-term loans and available cash. It is asserted that permanent financing would be undertaken as part of an overall long-term financing program at a later date. Applicant states that no new sales or service is proposed and construction would not increase the delivery of Applicant's main transmission system.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 31, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary

[FR Doc. 80-21441 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP79-149]

Transcontinental Gas Pipe Line Corp.; Petition To Amend

July 10, 1980.

Take notice that on June 19, 1980, Transcontinental Gas Pipe Line Corporation (Petitioner), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP79-149 a petition to amend the order issued in the instant docket on April 4, 1979, pursuant to Section 7(c) of the Natural Gas Act so as to authorize two additional points of delivery where Peititioner can deliver gas to Florida Gas Transmission Company (Florida), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that on April 4, 1979, it was authorized to transport on a best-efforts basis up to 1,800 dekatherms (dt) equivalent of natural gas per day for Florida. It is stated that Petitioner receives such gas from the D. R. Deen and G. L. Deen wells in Jefferson Davis County, Mississippi, and redelivers thermally equivalent quantities to Florida at an interconnection near the No. 1 Booth Well in Jefferson Davis County, Mississippi. For this transportation service, Florida is paying Petitioner, initially, 3.5 cents per dt equivalent delivered, it is said.

Applicant proposes herein to establish the existing points of interconnection between the systems of Petitioner and Florida in St. Helena Parish, Louisiana, and Vermilion Parish, Louisiana, as additional points where Petitioner may deliver the subject gas to Florida. Petitioner states that the transportation agreement between it and Florida was amended on March 18, 1980, to provide for the St. Helena and Vermilion points of redelivery.

Any person desiring to be heard or to make any protest with reference to said

petition to amend should on or before July 31, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21442 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-415]

Transcontinental Gas Pipe Line Corp.; Application

July 10, 1980.

Take notice that on June 19, 1980, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP80-415 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of natural gas supply facilities in Hidalgo County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to construct and operate approximately two miles of 4-inch to 6-inch pipeline in order to attach new gas supplies to its system from two wells drilled in the South McAllen Field, Hidalgo County, Texas.

Applicant estimates the cost of the proposed facilities to be $200,000 which would be financed initially through short-term loans and available cash. Permanent financing, it is asserted, would be undertaken as a part of an overall long-term financing program at a later date. Applicant states that no new sale or service is proposed, and construction would not increase the delivery capacity of Applicant's main transmission system.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 31, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21443 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-117]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

July 10, 1980.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco), on June 30, 1980, tendered for filing certain revised tariff sheets to Second Revised Volume No. 1 and Original Volume No. 2 of its FERC Gas Tariff. The proposed changes would increase revenues from jurisdictional sales; transportation and storage services by approximately $80 million based upon the 12-month period ended March 31, 1980, as adjusted. The proposed effective date of this rate change is August 1, 1980. Transco specifically requests that certain reduced rates for transportation services through offshore facilities be made effective subject to refund after no more than a one-day suspension to give the affected customers the early benefit of such rate reductions.

Transco states that the principal reasons which caused the rate increase are (1) increased depreciation expense caused largely by substantial amounts of new offshore facilities together with the need for higher depreciation allowances for offshore facilities due to rapid depletion of attached reserves; (2) increases in costs related to facilities and transportation services necessary to attach new gas supplies; (3) increases in prepayments, including provision for potential "take or pay for" liability; (4) increased labor and other operating expenses, and (5) an increase in the overall rate of return. These increased costs have been partially offset by decreased unit transmission costs due to increases in sales and transportation volumes.

In addition, *pro forma* tariff sheets were filed which would permit Transco to reflect in its GSS and S-2 storage rates any changes in the GSS rate of Consolidated Gas Supply Corporation or the X-28 rate of Texas Eastern Transmission Corporation, respectively. Further, because of uncertainty as to liability for certain "take or pay" amounts, Transco has submitted an alternate *pro forma* tracking mechanism that would permit Transco to recover costs related to any prepayment liability for which it may ultimately be held liable.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21444 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-119]

United Gas Pipe Line Co.; Proposed Changes in FERC Gas Tariff

July 11, 1980.

Take notice that United Gas Pipe Line Company (United), on June 30, 1980, tendered for filing the following proposed tariff sheets for inclusion in its FERC Gas Tariff, First Revised Volume No. 1:

Twelfth Revised Sheet No. 5.
Thirteenth Revised Sheet No. 6.
Twentieth Revised Sheet No. 21.
Sixth Revised Sheet No. 22.

United states that the revisions are being made to eliminate the demand ratchet provisions of United's Tariff, and to limit the overrun penalty to only those volumes taken in excess of 102 percent of Buyer's Maximum Daily Quantity. Previously the overrun penalty applied to all volumes taken by Buyer in excess of its Maximum Daily Quantity if the quantity taken on any day exceeded 102 percent of the Maximum Daily Quantity. United has requested that the revised tariff sheets be made effective as of December 1, 1978, the date that its rate filing in Docket No. RP78-68 became effective, and states that such revisions will not increase the rates charged to any of its customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21451 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-153]

Union Light, Heat & Power Co.; Filing

July 10, 1980.

The filing Company submits the following:

Take notice that on June 30, 1980, Union Light, Heat and Power Company (Union) submitted for filing a letter stating that Union had not collected any revenue in excess of the settlement rate approved by the Commission in its letter order, issued June 12, 1980, in the above-referenced proceeding. Accordingly, Union submits that there are no amounts to be refunded and presumes that it will not be necessary to file a compliance and refund report.

A copy of this filing has been sent to the parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before August 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21445 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-121]

United Gas Pipe Line Co.; Proposed Changes in FERC Gas Tariff

July 10, 1980.

Take notice that United Gas Pipe Line Company (United), on July 1, 1980, tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2. The proposed changes are based on the twelve-month period ending March 31, 1980, as adjusted, and would increase jurisdictional sales and transportation revenues by $58,516,855.

United states that the proposed rate increase is necessary to permit it to recover its jurisdictional cost of service for the test period of twelve months ended March 31, 1980, as adjusted. The cost of service reflects increases in all levels of cost, except gas costs which are reflected in the cost of service on the basis of the average unit cost of gas pruchased as contained in United's PGA rate change filed to become effective July 1, 1980, as reflected on Fifty—First Revised Sheet No. 4 to United's FERC Gas Tariff.

Copies of the filing have been served upon United's jurisdictional customers and the public service commissions of the states of Alabama, Florida, Louisiana and Mississippi, and the Texas Railroad Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21446 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Dockets Nos. CP76-516 and RP79-66]

Western Gas Interstate Co.; Tariff Filing

July 10, 1980.

Take notice that on June 27, 1980, Western Gas Interstate Company ("Western") filed herein the below listed tariff sheets to its FERC Gas Tariff, Original Volume No. 1 and Original Volume No. 2. Said tariff sheets are proposed to become effective on May 1, 1980.

FERC Gas Tariff Original Volume No. 1

Third Revised Sheet No. 1
Substitute Fourteenth Revised Sheet No. 3A
Second Revised Sheet No. 7
Second Revised Sheet No. 8
Second Revised Sheet No. 9
First Revised Sheet No. 10
First Revised Sheet No. 11

FERC Gas Tariff Original Volume No. 2

Third Revised Sheet No. 1

A description of the changes reflected on each of the above listed tariff sheets is provided below.

FERC Gas Tariff Original Volume No. 1

Third Revised Sheet No. 1—Table of Contents

This tariff sheet has been revised to include Rate Schedules G-R, T-2 and T-3.

Third Substitute Thirteenth Revised Sheet No. 3A—Statement of Rates

Rate Schedules G-N and G-S reflect the Base Tariff Rates and Average Cost of Purchased Gas included in Base Tariff Rates as filed in Western's offer of settlement in Docket No. RP79-66 on March 3, 1980 which was accepted and approved by FERC letter order dated May 1, 1980 in the above referenced docket.

Rate Schedules G-N and G-S also reflect the Purchased Gas Cost Adjustment and Purchased Gas Surcharge Adjustment as filed

on March 31, 1980 in Western's Docket No. TA80-2-52 (PGA80-2). The FERC in its letter order dated April 24, 1980 in the above referenced docket accepted Western's PGA rate adjustment conditioned upon our filing revised rates to reflect the proper pipeline supplier rates. Western requests waiver of the condition so as not to increase the rate as required by the FERC as further detailed in Western's filing.

Rate Schedule G-R has been added to Western's "Statement of Rates" resulting from the FERC "Order Amending Order Issuing Certificate of Public Convenience and Necessity" issued December 10, 1979 in Docket No. CP76-516.

Second Revised Sheet Nos. 7, 8, and 9—Rate Schedule G-R

Sheets 7, 8 and 9 set forth Rate Schedule G-R as filed in Western's "Application for a Certificate of Public Convenience and Necessity" on September 3, 1976 in Docket No. CP76-516.

First Revised Sheet No. 10 and 11—Cancellation of Rate Schedule G-2

These tariff sheets are being issued to reflect the cancellation of Rate Schedule G-2 as provided for on First Revised Sheet No. 9 effective June 15, 1974.

FERC Gas Tariff Original Volume No. 2

Third Revised Sheet No. 1

This tariff sheet has been revised to include Rate Schedules G-R T-2 and T-3.

Any person desiring to be heard and to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 23, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Western's filing is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21447 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. E-9408]

American Electric Power Service Corp.; Filing

July 14, 1980.

The filing company submits the following:

Take notice that on May 28, 1980, American Electric Power Service Corporation (AEP) submitted for filing certain additional data in support of its compliance report, which was filed on October 25, 1979, in the above-referenced proceeding.

AEP's filing of October 25 was submitted pursuant to Commission Opinion No. 50, as amended by the Commission's order of September 24, 1979. The present filing is being submitted pursuant to a request by the Director of the Office of Electric Power Regulation. The request was made by letter, dated April 24, 1980, to AEP.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before August 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21664 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-507]

Arkansas Power & Light Co.; Filing

July 14, 1980.

The filing Company submits the following:

Take notice that on July 2, 1980, Arkansas Power and Light Company (APL) submitted for filing a "Notice of Cancellation" of Rate Schedule FPC No. 68.

APL states that Rate Schedule FPC No. 68 will no longer be necessary since the customer—the City of Jonesboro—will be receiving capacity and energy from White Bluff Unit No. 1 as of the effective date of commercial operation. Since the effective date of commercial operation of White Bluff Unit No. 1 is not known, APL requests that the Commission waive the necessary regulations so that the effective date of cancellation will be the date of commercial operation of White Bluff Unit No. 1.

A copy of this filing has been mailed to the City of Jonesboro.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 amd 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before August 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21665 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-512]

Central/Maine Power Co.; Filing

July 14, 1980.

The filing Company submits the following:

Take notice that Central Maine Power Company, on July 9, 1980, tendered for filing a service contract amendment with the Town of Madison, Department of Electric Works. Central Maine states that the instant contract amendment is necessary as Madison has constructed a new substation to take electric energy from the Company at 34,500 volts and service previously taken at 4,160 volts is no longer required.

Central Maine requests a waiver of the notice requirements of the Commission's Regulations so as to allow an effective date of March 1, 1980. Central Maine further states that granting of this waiver will have no effect on any purchase under this service contract.

Copies of the filing were served upon the Town of Madison, Department of Electric Works and the Maine Public Utilities Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before August 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are

on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21666 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-433]

Cimarron Transmission Co.; Application

July 14, 1980.

Take notice that on July 1, 1980, Cimarron Transmission Company (Applicant), 58 Broadlawn Village, Ardmore, Oklahoma 73401, filed in Docket No. CP80-433 and application pursuant to Section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during an indefinite period commencing with the date of this order, and operation of facilities to enable Applicant to take into its certified main pipeline system natural gas supplies, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant and supplies of natural gas from Applicant's own production or acquired for system supply under Sections 311 or 312 of the Natural Gas Policy of 1978.

Applicant states that the annual total cost of the proposed facilities would not exceed $500,000 with no single project to exceed a cost of $125,000. The cost of the proposed facilities would be financed from internally generated sources and outside borrowing, if necessary, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 4, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21667 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-437]

Colorado Interstate Gas Co.; Application

July 14, 1980.

Take notice that on July 2, 1980, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP80-437 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Sinclair Oil Corporation (Sinclair) and the construction and operation of facilities necessary therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes herein pursuant to a 15-year gas transportation agreement, dated March 1, 1980, between Applicant and Sinclair to transport gas for Sinclair from supply sources controlled by Sinclair in the West Creston and Blue Gap areas of Carbon County, Wyoming. Applicant estimates that initially it would transport an average of 2,592 Mcf of gas per day on a best-efforts basis.

Applicant states that the transportation charge to be paid by Sinclair would equal the amount per Mcf reflected in Applicant's jurisdictional transmission system cost of service. That rate when the contract was signed was 24.82 cents per Mcf, it is said. Applicant also states that gas delivered from the Blue Gap area would also utilize the facilities of Western Transmission Corporation (Westrans). An additional transportation charge of 15.79 cents per Mcf, payable by Sinclair to Applicant for Westrans, would apply to those volumes which are initially estimated to be 1,620 Mcf per day, it is said.

Additionally, Applicant proposes to construct and operate a tap and side valve on its existing transmission line at the redelivery location upstream of the Rawlins Gasoline Gasoline Plant in Carbon County, Wyoming. Measurement facilities at the points of delivery and redelivery to Sinclair would also be installed and operated by Applicant, it is said. Such facilities, Applicant asserts, would be used to effectuate Applicant's transportation service for Sinclair. The cost of the proposed facilities is estimated to be $59,900 which would be financed from current funds on hand, funds from operations, short-term borrowing, or long-term financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 4, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if

the Commission on it own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21668 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP78-67]

Columbia Gas Transmission Corp.; Petition To Amend

July 14, 1980.

Take notice that on June 25, 1980, Columbia Gas Transmission Corporation (Petitioner), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25312, filed in Docket No. CP78-67 a petition to amend the order issued in the instant docket on May 3, 1978, as amended December 15, 1978, pursuant to Section 7(c) of the Natural Gas Act so as to authorize the construction and operation of a pipeline facility varying in size from that originally authorized, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that on May 3, 1978, it was authorized to construct and operate 30 separate projects on its pipeline system. The Commission's order further required that the authorized facilities be constructed and placed in actual operation within 12 months of the date of the order.

By order of December 15, 1978, the Commission amended its May 3, 1978, order which amendment authorized changes in the design of Project Nos. 10 and 30 as designated in the original application and order, it is said. These revised projects were to be constructed and placed in actual operation within one year of the date of the order, Petitioner asserts.

Petitioner states that it requested a six-month extension of time to complete the projects authorized herein with the exception of Projects Nos. 10 and 30, as revised. This request was granted by the Commission's order of February 28, 1979, and the time for completion was extended to November 3, 1979, it is said. Petitioner further states that on October 3, 1979, it advised the Commission that revised Project Nos. 10 and 30 were placed in service on September 25, 1979, and on November 20, 1979. Petitioner states that it advised the Commission that, with the exception of Project No. 26, the authorized facilities were placed in service on May 16, 1979.

Project No. 26 was described in the original application as:

"The construction and operation of approximately 0.2 mile of 2-inch transmission pipeline replacing a like amount of 12-inch pipeline located in Tucker County, West Virginia."

The stated purpose of Project No. 26 was to provide for the continuance of adequate service to the communities of St. George and Bretz and others located in Tucker and Preston Counties, West Virginia, by replacing a section of bare coupled steel pipe installed in 1907.

Petitioner states that the construction of Project No. 26 was contingent upon the completion of Revised Project No. 30. It is stated that work started on Project No. 26 during the week of October 21, 1979, but was halted when the heater facility failed at the new point of delivery authorized in Revised Project No. 30. After several flow tests, it was determined that the manufacturer had made an error in the heater's design and was required to construct a new part for the heater, it is said. As a result, it is stated, the new point of delivery was not functional until November 20, 1979. Petitioner states that its operation personnel determined that the construction of Project No. 26 should be deferred for several months of operation of Project No. 30 since the failure of any part thereof during the construction of Project No. 26 would result in a loss of service to the St. George and Bretz market areas.

Subsequent to the installation of the point of delivery authorized in Revised Project No. 30, Petitioner determined that the potential for growth in the St. George and Bretz market areas could be better served by the installation of a Revised Project No. 26 described as follows:

"26R. The construction and operation of approximately 0.2 mile of 3-inch transmission pipeline replacing a like amount of 12-inch pipeline located in Tucker County, West Virginia."

The cost of the Revised Project No. 26 is estimated to be $13,000 which would be financed through internally generated funds, it is said.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 4, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriated action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21669 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-361]

Florida Gas Transmission Co.; Amendment to Application

July 14, 1980.

Take notice that on June 27, 1980, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP80-361 pursuant to Section 7(c) of the Natural Gas Act an amendment to its pending application in the instant docket so as to reflect the relocation of the proposed pipeline loop and the new location of the proposed liquid removal plant, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant, in its application filed in the instant docket on May 12, 1980, requested authorization to loop its existing 24-inch pipeline in St. Landry Parish, Louisiana, it is said. Applicant further states that it requested permission in the application to install a liquid removal facility.

Applicant states that after subsequent discussions with environmental consultants retained to evaluate the proposed project, it has become aware of the possibility that the locations initially proposed for the looped section of the pipeline and the liquid removal facility may cause some environmental problems.

Accordingly, Applicant has relocated the sites of the proposed loop to a location immediately south of an adjacent to its existing 24-inch line in St. Landry Parish, Louisiana. Additionally, Applicant states that the proposed liquid removal facility has been relocated from a point within the McFaddin Game Preserve near an existing oil production facility to a point

within the preserve on its northern edge at the Intracoastal Waterway and near an existing oil storage and dock loading facility.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before August 4, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21670 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. QF80-12]

Furniture Division of the Singer Co.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

July 14, 1980.

On May 12, 1980, the Furniture Division of The Singer Company filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The facility is located in Roanoke, Virginia. The Furniture Division of The Singer Company states that it is a bedroom furniture manufacturing plant which has kiln dried lumber blocks, sawdust, sanding dust, and machining wood chips as a waste by-product of the furniture manufacturing process. The wood chips are collected, stored, and introduced into a wood-only boiler. The wood boiler generates steam that is used for drying the lumber, drying the finished furniture, drying the glued panels, and providing necessary steam heat for employee comfort. The facility plans to install a 400 kilowatt induction electrical generator driven by a single stage steam turbine with steam supplied by its wood fired boiler. The turbine will be supplied with 150 psig saturated steam with the output of the steam from the turbine at 15 psig and with the flow of 15 psig steam supplying the entire steam supply to the kiln drying operations at the facility. The Furniture Division of The Singer Company further states that it has no ownership connection to an electric utility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before August 18, 1980, and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21671 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES80-63]

Iowa Public Service Co.; Application

July 14, 1980.

Take notice that on July 3, 1980, Iowa Public Service Company (Applicant) filed an application seeking an order pursuant to Section 204 of the Federal Power Act authorizing the issuance of securities in connection with arrangements pursuant to which the City of Chillicothe, Iowa is to issue up to $8,000,000 aggregate principal amount of its pollution control revenue bonds (the "Pollution Control Revenue Bonds") and loan the proceeds thereof to Applicant to use to pay part of Applicant's share of the cost of pollution control facilities being constructed at unit No. 1 at the Ottumwa Steam Electric Generating Station located near Chillicothe, Iowa. Ottumwa Unit No. 1 is owned by Applicant and others as tenants in common with Applicant having an 18.519% interest.

Applicant is incorporated under the laws of the State of Iowa, with its principal business office in Sioux City, Iowa, and is engaged in the electric utility business in northwestern, north central and east central Iowa and a few small communities in South Dakota.

Any person desiring to be heard or to make any protest with referenece to said application should, on or before July 31, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All protests filed with the Commission will be considered by the Commission by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21672 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Dockets Nos. E-8494 and E-9502]

Minnesota Power & Light Co.; Filing

July 14, 1980.

The filing Company submits the following:

Take notice that on June 27, 1980, Minnesota Power and Light Company submitted a refund report pursuant to Commission Opinion Nos. 12 and 20.

A copy of this filing has been sent to each of the affected customers and to the Minnesota and Wisconsin Public Service Commissions.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before August 7, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of the filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21673 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-511]

Niagara Mohawk Power Corp.; Filing

July 14, 1980.

The filing company submits the following:

Take notice that on July 1, 1980, Niagara Mohawk Power Corporation (NMPC) submitted for filing a supplement to its filing of December 3, 1979. The December 3 filing was designated as Docket No. ER80-116. The present filing was made pursuant to the "Order Vacating Conference". That order was issued by the Presiding Administrative Law Judge on June 10, 1980 in Docket No. ER80-116.

This issue arose when, on May 28, 1980, the Commission staff filed a motion requesting that the proceedings which had been initiated as a result of the December 3, filing, be postponed since, at that time, NMPC was preparing a transmission rate filing which would supersede the December 3 filing. Furthermore, staff contended that NMPC did not intend to apply the proposed rate (i.e., the December 3 filing) to the sole intervenor (the Village of Lake Placid) in the case.

On June 9, 1980, NMPC filed a motion requesting that the proceedings then in progress be delayed until NMPC's new rates could be filed. In its motion, NMPC stated that the new rates would be substituted for those filed on December 3. Accordingly, NMPC concluded that it did not desire to proceed on the basis of the December 3 filing.

The Presiding Judge issued his ruling on June 10, 1980. In his order, the Presiding Judge held that since the December 3 filing was to be immediately superseded, there was no reason for determining the justness and reasonableness of the December 3 filing. Furthermore, the Presiding Judge ordered NMPC to file its new rates by July 1, 1980, or be prepared to continue the proceedings concerning the rates filed on December 3.

As noted above, NMPC, on July 1, 1980, submitted its new rates for filing. This new filing has been designated as Docket No. ER80-511.

NMPC Submits that it has submitted the rates contained in the instant filing to the Power Authority of the State of New York (PASNY) for PASNY's consideration. NMPC further submits that its transmission service to PASNY is the subject of Docket Nos. ER79-559 and ER79-560.

Copies of this filing have been sent to PASNY, the Village of Lake Placid, and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before August 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21674 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-509]

NYPP-PJM Group Interconnection Agreement; Notice of Filing

July 14, 1980.

In the matter of Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; Long Island Lighting Co.; New York State Electric & Gas Corp.; Niagara Mohawk Power Corp.; Orange and Rockland Utilties, Inc.; Rochester Gas & Electric Corp. (Above referred to collectively as the NYPP Group); Public Service Electric & Gas Co.; Philadephia Electric Co.; Pennsylvania Power & Light Co.; Baltimore Gas and Electric Co.; Potomac Electric Power Co.; Jersey Central Power & Light Co.; Metropolitan Edison Co.; Pennsylvania Electric Co.; (Above referred to collectively as the PJM Group).

The filing company submits the following:

Take notice that on July 3, 1980, the Office of the Pennsylvania-New Jersey-Maryland Interconnection filed on behalf of the above listed utilities Schedules 3.02, 4.02, 5.02, 7.02, 9.01, and withdrew Schedule 6.01 to the Interconnection Agreement between the NYPP Group and PJM Group dated April 9, 1974.

The schedules provide for replacing the traditional percentage adders used in pricing Emergency and Supplemental Energy and Operating Capacity transactions, as well as for Non-replacement Energy transactions, with cost-justified fixed adders based upon identifiable costs. The demand rates for Supplemental Service transactions are changed from a daily to an hourly basis.

No new facilities will be installed nor will existing facilities be modified in connection with the schedules. The filing Parties have requested a waiver of the statutory 60-day notice period and any otherwise applicable Rules and Regulations not already complied with so that these changes may become effective on August 1, 1980, that being the requested effective date of changes already filed for Agreements among PJM and others.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests should be filed on or before August 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21675 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ST80-241]

ONG Western, Inc.; Application for Approval of Rates

July 14, 1980.

Take notice that on June 20, 1980, ONG Western, Inc. (Applicant), 624 South Boston Avenue, Tulsa, Oklahoma 74119, filed in Docket No. ST80-241 an application pursuant to Section 284 of the Commission's regulations for approval of rates charged for transporting natural gas for Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it and Natural entered into a transportation agreement whereby Applicant is to provide a transportation service to Natural for a two year term beginning June 20, 1980, and continuing from year to year thereafter. Applicant estimates that 2,000 Mcf of natural gas would be transported daily, with the total quantity during the two year period to be approximately 1,460,000 Mcf. It is further stated that Natural would deliver the gas to Applicant in Custer County, Oklahoma, and Applicant would deliver the gas to Natural at either of the two points of interconnection between their two systems located in Woodward and Custer Counties, Oklahoma.

Applicant proposes to charge Natural 10.0 cents per million Btu for the transportation service.

It is further asserted that the Oklahoma Corporation Commission has been notified that the Commission has presumed that all revenues received by Applicant have been or would be taken into account by the Oklahoma Corporation Commission for purposes of establishing rates charged by Applicant for services to its customers.

Further, Applicant requests Commission approval for the transportation service after the initial 2-year period until the earliest to occur of the following:

(a) The supply of gas from the wells from which Natural is purchasing gas to be transported under the agreement is depleted; or

(b) Natural elects to terminate the agreement by 90 days advance notice given to Applicant; or

(c) The Commission (1) denies authorization for the extension of the agreement pursuant to the provisions of Section 284.125(b) of the Regulations or (2) attaches conditions to or modifies the terms of any authorization for the extension which conditions or modified terms are unacceptable to the party, in its sole discretion, being affected by such conditions of terms; or

(d) January 1, 1990.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 4, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21676 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES80-64]

Pennsylvania Power & Light Co.; Application

July 14, 1980.

Take notice that on July 3, 1980, Pennsylvania Power & Light Company (Applicant), filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act seeking authority to issue up to $300 million of short-term unsecured Promissory Notes and commercial paper notes, to be issued from time to time, prior to September 30, 1981. Applicant is a Pennsylvania corporation principally engaged in the production, purchase, transmission, distribution and sale of electricity in a service area of approximately 10,000 square miles in 29 counties of central eastern Pennsylvania with an estimated population of about 2.4 million persons.

The proceeds from the issuance of the Notes will be used principally as interim financing of Applicant's construction program, which will require approximately $1.849 billion over the 1980–1982 period.

Any person desiring to be heard or to make any protest with reference to said application should, on or before August 1, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21677 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-514]

Southern Co. Services, Inc.; Notice of Filing

July 14, 1980.

The filing Company submits the following:

Take notice that on July 1, 1980, Southern Company Services, Inc. (SCS) tendered for filing a letter indicating that the Jacksonville Electric Authority (JEA) is increasing the amount of Long Term Capacity to be purchased under the Power Sale Agreement between JEA and Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and SCS from 50 megawatts to 100 megawatts through the period ending September 15, 1985.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before August 5, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21678 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-515]

Southern Co. Services, Inc.; Notice of Filing

July 14, 1980.

The filing Company submits the following:

Take notice that on July 1, 1980, Southern Company Services, Inc. (SCS) tendered for filing a letter indicating that Florida Power and Light Company (FPL) is increasing the amount of capacity to be purchased under Service Schedule E of the Interchange Contract between FPL and Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and SCS from 50 megawatts to 100 megawatts for the period June 26, 1980 through December 31, 1986.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before August 5, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21679 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-431]

Texas Eastern Transmission Corp.; Application

July 14, 1980.

Take notice that on July 1, 1980, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP80-431 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the expansion of a meter station on Applicant's line in Middlesex County, New Jersey, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to expand its meter and regulator Station No. 275 in Middlesex County, New Jersey, in order to increase station capacity from approximately 622 dekatherms (dt) equivalent per hour to 2,000 dt equivalent per hour. Applicant states that such an expansion is needed to provide a greater delivery rate per hour to meet peak demands of Applicant's existing customer, Elizabethtown Gas Company (Elizabethtown), and would not result in an increase in total daily deliveries or contract quantities.

Applicant avers that the proposed facilities would be installed at an existing station and would not require additional land or rights-of-way. Moreover, it is estimated that construction would cost $126,000, and Elizabethtown would reimburse Applicant for such cost.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 4, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21680 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-354]

United Gas Pipe Line Co.; Amendment to Application

July 14, 1980.

Take notice that on June 23, 1980, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP80-354 pursuant to Section 7(c) of the Natural Gas Act an amendment to its pending application to reflect the construction and operation of metering and regulating facilities near Purvis, Lamar County, Mississippi, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant stated that on May 7, 1980, it filed for authorization to transport and exchange up to 9,000 Mcf of gas per day for Amoco Production Company (Amoco). It was stated that the gas would be delivered to Applicant at a point of interconnection between the facilities of Applicant and Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), on Applicant's 16-inch Baxterville-Hattiesburg line near Purvis, Lamar County, Mississippi. Applicant states it then proposed to redeliver the gas to Amoco at three existing points of interconnection, and originally believed that no new facilities would be required to effectuate the proposed transportation and exchange of gas.

Applicant now asserts that it is necessary to construct a 4-inch tap and metering and regulatory facilities on the Baxterville-Hattiesburg line near Purvis in order to receive the subject volumes of gas from Alabama-Tennessee for the account of Amoco. Applicant estimates the cost of such facilities to be $124,210 which would be financed from funds in hand.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before August 4, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-21681 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1540-4]

Approval of PSD Permits

Notice is hereby given that the Environmental Protection Agency, Region 6, has issued the following permits under the regulations for the prevention of significant air quality deterioration, as published in 40 CFR 52.21 (1979). Each of the permits contains enforceable limits on the emissions of air pollutants.

1. Arkansas Eastman Company was issued a permit to expand its existing intermediate organic chemicals plant at Batesville, Arkansas.

2. Reynolds and Williams, Inc., was issued a permit for construction of a new asphalt hot mix plant located at Jonesboro, Arkansas.

3. Cities Service Company was issued a permit to expand the reforming capabilities of its Lake Charles refinery located at Lake Charles, Louisiana.

4. Convent Chemical Corporation was issued a permit to construct a new chloralkali/ethylene-dichloride manufacturing facility to be located at Romeville, Louisiana.

5. Dow Chemical U.S.A., Louisiana Division, was issued a permit to construct a new waste incineration system and a new polyethlene plant at Plaquemine, Louisiana.

6. International Paper Company was issued a permit to construct a

containerboard complex located near Mansfield, Louisiana.

7. Uniroyal Chemical was issued a permit to construct a para amino diphenylamine (UBOB) manufacturing expansion facility located at Geismar, Louisiana.

8. Ventech Refining Company was issued a permit to construct a petroleum refinery located at Krotz Springs, Louisiana.

9. Gulf Oil Corporation was issued a permit to construct a new uranium mill to process blended ore to be finished yellow cake product at a design rate of 4200 dry tons of ore per day located at San Mateo, New Mexico.

10. Phillips Petroleum Company, was issued a permit to expand their carbon black pilot plant research facility located at Bartlesville, Oklahoma.

11. Air Products and Chemical, Inc., was issued a permit to construct a hydrogen/carbon monoxide (HYCO) plant located at Channelview, Texas.

12. ARCO Chemical Company was issued a permit to construct a chemical plant to produce 200 million pounds per year of polymethylene polyphenyl isocyanates (PMDI) located at Channelview, Texas.

13. Badische Company was issued a permit to construct a neopentyl glycol chemical plant located at Freeport, Texas.

14. Champlin Petroleum Company was issued a permit to construct five internal combustion engines totaling 4360 horsepower at its East Texas Gas Plant located at Carthage, Texas.

15. Chaparral Steel Company was issued a permit to expand its existing steel manufacturing plant located at Midlothian, Texas.

16. Enserch Exploration, Inc., was issued a permit to construct an ethane recovery plant located at Cisco, Texas.

17. Gulf Oil Co., U.S., was issued a permit to construct a crude distillation unit to replace four existing crude distillation units and to replace the existing heaters on two crude units with new ones located at Port Arthur, Texas.

18. Houston Lighting and Power Company was issued a permit to construct two identical auxiliary steam generators located at the South Texas Nuclear Generating Station in Matagorda County, Texas.

19. International Business Machines Corporation was issued a permit to construct a new ceramic circuit substrate manufacturing facility located at Austin, Texas.

20. Johns-Manville Sales Corporation was issued a permit to construct a new refractory fiber insulation manufacturing facility located at Nacogdoches, Texas.

21. Kirby Forest Industries, Inc., was issued a permit to construct a new fluidized bed woodwaste boiler facility at Silsbee, Texas.

22. LKL, Incorporated was issued a permit to construct a natural gas treating and processing plant and sulfur recovery plant located at Van, Texas.

23. LaGloria Oil and Gas Company was issued a permit to construct a new Gasoline and Diesel Products loading and storage terminal facility located at Houston, Texas.

24. Luling Iron Foundry was issued a permit to construct a gray iron castings foundry facility located at Luling, Texas.

25. Shell Oil Company was issued a permit to construct five process heaters and two flares to be located at Deer Park, Texas.

26. Texaco, Inc., was issued a permit to expand crude oil distillation capacity and construct an amine regeneration unit at its existing refinery located at Port Arthur, Texas.

27. Ventech Refining was issued a permit to construct a tank farm and dock facility located on the Atchafalaya River, three miles south of the junction of U.S. Highway 190 and Route 105, near Krotz Springs, Louisiana. Copies of all permits are available for public inspection at the following location: Environmental Protection Agency, Air and Hazardous Materials Division, First International Building, 1201 Elm Street, Dallas, Texas 75270.

Copies of permits for sources located in Arkansas are available for inspection at the following additional location: Arkansas Department of Pollution, Control and Ecology, Air Pollution Control Division, 8001 National Drive, Little Rock, Arkansas 72209.

Copies of permits for sources located in Louisiana are available for public inspection at the following additional location: Louisiana Department of Natural Resources, Air Quality Division, Natural Resources Building, Baton Rouge, Louisiana 70804.

Copies of permits for sources located in New Mexico are available for public inspection at the following additional location: New Mexico Environmental Improvement Division, Air Quality Section, Crown Building, Santa Fe, New Mexico 87530.

Copies of permits for sources located in Oklahoma are available for public inspection at the following additional location: Oklahoma State Department of Health, Air Quality Service, Northeast 10th and Stonewall, Oklahoma City, Oklahoma 73105.

Copies of permits for sources located in Texas are available for public inspection at the following additional location: Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

Under section 307(b)(1) of the Clean Air Act, judicial review of each permit is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Arkansas—Eighth Circuit
Louisiana—Fifth Circuit
New Mexico—Tenth Circuit
Oklahoma—Tenth Circuit
Texas—Fifth Circuit

Dated: July 2, 1980.

Frances E. Phillips,
Acting Regional Administrator, Region 6.

[FR Doc. 80-21512 Filed 7-17-80; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1540-8]

Approval of PSD Permit to Airco Speer Carbon-Graphite

Notice is hereby given that on June 5, 1980, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, Number PSD-LA-283, to Airco Speer Carbon-Graphite for approval to construct a graphite electrode manufacturing plant to be located adjacent to the west bank of the Mississippi River, approximately 5.7 miles northeast of Tallulah, Madison Parish, Louisiana. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit, including:

1. Compliance with the emission limitations for the emission points listed shall be determined by the test methods and procedures set our in 40 CFR Part 60, Appendix A, Method 5, Determination of Particulate Emissions from Stationary Sources, Method 9, Visual Determination of the Opacity of Emissions from Stationary Sources, Method 10, Determination of Carbon Monoxide Emissions from Stationary Sources, Method 15, Determination of Hydrogen Sulfide, Carbonyl Sulfide, and Carbon Disulfide Emissions from Stationary Sources.

2. The sulfur content of all petroleum products is limited to 0.8 percent by weight.

3. The gas oil produced by the petroleum coker is limited to 0.7 percent sulfur by weight.

4. Combustion units S–160–1, S–280–3 through S–280–14, and S–500–3 shall burn only natural gas with a hydrogen sulfide (H_2S) content not exceeding 0.10 grains per dry standard cubic foot.

5. Exhaust from the baking operations shall be incinerated to combust condensible volatile matter.

6. Vapor formed during the impregnation of pitch to the carbon rods shall be collected in a vapor recovery system for condensation and recycling.

Under section 307(b)(1) of the Clean Air Act, judicial review of PSD Permit LA–283 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air & Hazardous Materials Division, Air Program Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

Office of the City Secretary, City Hall, 204 North Cedar, Tallulah, Louisiana 71282.

Dated: July 3, 1980.

Frances E. Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80–21508 Filed 7–17–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1540–7]

Approval of PSD Permit to Formosa Plastics Corp., U.S.A.

Notice is hereby given that on June 4, 1980, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, Number PSD–TX–226, to Formosa Plastics Corporation, U.S.A. for approval to construct an ethylene dichloride (EDC), vinyl chloride monomer (VCM), and polyvinyl chloride (PVC) production plant in Calhoun County, Texas. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit, including:

1. Compliance with the nitrogen oxides emission limitations for emission points a through j in paragraph 1, and the opacity limitations for emission points a through q in paragraph 1 shall be determined by the test methods and procedures set out in 40 CFR Part 60, Appendix A, Method 7, Determination of Nitrogen Oxide Emissions from Stationary Sources and Method 9, Visual Determination of the Opacity of Emissions from Stationary Sources, respectively.

2. Total fugitive hydrocarbon emissions from valves, flanges, pumps, compressors, drains, or relief valves shall not exceed 4.6 lbs/hr.

3. Compliance with the hydrocarbon emission limitations for the emission points a through j of paragraph 1 shall be determined by test methods and procedures set out in *proposed* 40 CFR Part 60; Appendix A, Method 25, Determination of Total Gaseous Nonmethane Organic Emissions as Carbon: Manual Sampling and Analysis Procedure, as found on p. 57808 in the October 5, 1979, Federal Register.

4. The permittee shall burn only natural gas as fuel in combustion sources 1.a through 1.j.

5. The permittee shall install and operate low NO_x burners in combustion sources 1.a through 1.j.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD Permit TX–226 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air & Hazardous Materials Division, Air Program Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

Office of the City Secretary, 106 Jones Street, Point Comfort, Texas 77978.

Dated: July 3, 1980.

Frances E. Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80–21509 Filed 7–17–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1540–6]

Approval of PSD Permit to Texas Cement Co.

Notice is hereby given that on May 16, 1980, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, Number PSD–TX–194, to Texas Cement Company for approval to expand its existing Portland Cement Plant, located 2 miles south of Buda, Hays County, Texas on FM 2770, from a capacity of 1375 tons per day to 2750 tons per day. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit, including:

1. The permittee shall install three oxygen flue gas monitors in the exhausts of emission points 1.a and 1.b to continuously monitor a representative sample of the flue gas.

2. The permittee shall burn only coal of sulfur content not to exceed 2.3 percent by weight.

3. The permittee shall pave all permanent plant roads with a topping (either petroleum or non-petroleum based) and shall clean the pavement daily.

4. The permittee shall control fugitive particulate emissions from construction by the use of windbreaks, watering and/or other equivalent methods of control.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD Permit TX–194 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today' s notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air & Hazardous Materials Division, Air Program Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

Office of the City Secretary, City Hall, Main Street, Buda, Texas 78610.

Dated: July 3, 1980.

Frances E. Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80–21510 Filed 7–17–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1540–5]

Approval of PSD Permit to Diamond Shamrock Corp.

Notice is hereby given that on June 2, 1980, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, Number PSD–TX–276, to Diamond Shamrock Corporation for approval to construct a 313 megawatt combined cycle generating facility located at the existing Battleground plant in La Porte, Texas, at the intersection of State Highway 134 and State Park Road 1836.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations [40 CFR 52.21] applicable to the new facility subject to certain conditions stated in the permit, including:

1. All combustion units (emission points 1.a through 1.f) in this permitted source shall fire natural gas only.

2. Compliance with the mass emission limitations for the emission points listed in paragraph 1 shall be determined by the test methods and procedures set out in 40 CFR part 60, Appendix A, Method 5, Determination of Particulate Emissions from Stationary Sources, Method 9, Visual Determination of the Carbon Monoxide Emissions from Stationary Sources, and Method 20, Determination of Nitrogen Oxides, Sulfur Dioxide, and Oxygen Emissions from Stationary Gas Turbines.

Under section 307(b)(1) of the Clean Air Act, judicial review of PSD Permit TX-276 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air & Hazardous Materials Division, Air Program Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

Office of the Mayor, City Hall, P.O. Box 1115, La Porte, Texas 77571.

Dated: July 3, 1980.

Frances E. Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80-21611 Filed 7-17-80; 8:45 am]

BILLING CODE 6560-26-M

[OPP-180458; FRL 1541-4]

Arkansas, Michigan, New Hampshire, New York, Rhode Island, and Vermont; Issuance of Specific Exemptions To Use Mesurol on Blueberries as a Bird Repellent

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions to the Arkansas State Plant Board, Michigan Department of Agriculture, New Hampshire Department of Agriculture, New York Department of Environmental Conservation, Rhode Island Department of Environmental Management, and the Vermont Department of Agriculture (hereinafter referred to as "Arkansas", "Michigan", "New Hampshire", "New York", "Rhode Island", and "Vermont" or the "applicants") to use Mesurol on blueberries as a bird repellent. The specific exemptions will expire on September 30, 1980. These specific exemptions are issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: These specific exemptions expire September 30, 1980.

FOR FURTHER INFORMATION CONTACT: Libby Welch, Office of Pesticide Programs, Registration Division (TS-767), Rm: E-124, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, Telephone: 202/426-0223.

SUPPLEMENTARY INFORMATION: Starlings, grackles, robins, and blackbirds are the predominant species responsible for significant losses in blueberry production in Arkansas and Michigan. The birds begin feeding on the earliest maturing varieties of blueberries as the fruit ripens and continue through maturity and harvest. The Applicants state that bird damage in the form of predation is ever-present, and current methods of control (distress baits, chemosterilants, noise devices, alarms, and netting) are not effective, or are not economically feasible.

If Mesurol is not available, Arkansas estimates a loss of 25 to 30 percent of the blueberry crop (a loss valued at $60,000); Michigan estimates a loss of 5 to 65 percent (average 8 percent) (valued at $440,000); New Hampshire estimates a loss of up to 70 percent (valued at $160,000); New York estimates a loss of 10 to 80 percent (valued at $120,000 to 960); and Rhode Island estimates a loss of 60 percent (valued at $50,000) for this year's crop.

The Applicants requested that EPA allow application of Mesurol 75% Wettable Powder, EPA Reg. No. 3125-288, which contains the active ingredient (a.i.) 3,5 dimethyl-4-(methylthio)phenyl methylcarbamate. A total of 75 acres will be treated in Arkansas; in Michigan a total of 2,500 acres; in New Hampshire a total of 100 acres; in New York a total of 500 acres; in Rhode Island a total of 30 acres; and in Vermont a total of 60 acres will be treated.

EPA has established permanent tolerances for residues of the active ingredient on fruits with similar physiological characteristics, such as cherries at 25 parts per million (ppm) and peaches at 15 ppm. A permanent tolerance of 25 ppm is expected to be established soon. This level has been judged adequate to protect the public health. No unreasonable adverse effects to the environment are expected to result from the proposed use.

After review the applications and other available information, EPA has determined that the requirements for a specific exemption have been met.

Accordingly, the Applicants have been granted specific exemptions to use the pesticide noted above until September 30, 1980 to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. Use of the product Mesurol 75% Wettable Powder, EPA Reg. No. 3125-288, is authorized. If an unregistered label is used it must contain the identical applicable precautions and restrictions which appear on the registered label;

2. A maximum application rate of 2.67 pounds of formulation (2.0 pounds a.i.) per acre per application in not less than five gallons of water is authorized;

3. A maximum of three applications may be made, not to exceed 6.0 pounds of formulation (4.5 pounds a.i.) per acre per season; except in New York where only two applications can be made;

4. A maximum of 450 pounds a.i. may be applied to 75 acres of blueberries in Arkansas. A maximum of 15,000 pounds a.i. may be applied to 2,500 acres in Michigan; a maximum of 600 pounds a.i. may be applied to 100 acres of high-bush blueberries in New Hampshire; a maximum of 2,000 pounds a.i. may be applied to 500 acres in New York; a maximum of 180 pounds a.i. may be applied to 30 acres of high-bush blueberries in Rhode Island; and a maximum 360 pounds a.i. may be applied to 60 acres in Vermont;

5. A seven-day interval between applications must be observed;

6. Applications may be made with ground or aerial equipment;

7. Applications shall be made by State-certified private applicators or State-licensed commercial applicators;

8. Blueberries with residue levels not exceeding 25 ppm a.i. may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services has been advised of this action;

9. Mesurol is toxic to fish. It must be used with care when applied when in areas adjacent to any body of water. It may not be applied when weather conditions favor runoff or drift from treated areas;

10. All applicable precautions, directions, and restrictions on the EPA-accepted label must be adhered to;

11. The EPA must be immediately informed of any adverse effects resulting from this use of Mesurol; and

13. The Applicants are each responsible for ensuring that all of the provisions of its specific exemption are followed and must submit a final report summarizing the results of its program by December 31, 1980.

(Sec. 18, as amended (92 Stat. 819; 7 U.S.C. 136))

Dated: July 10, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-21506 Filed 7-17-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1541-6]

Data Collection Activities

The purpose of this notice is to identify certain data collection activities to be undertaken by the United States Environmental Protection Agency (EPA) during the six month period July 1, 1980 through December 31, 1980 for specific industrial point source categories. Prior notification will alert affected industries that potential questionnaires, analytical sampling surveys of self monitoring surveys are forthcoming and enable them to participate in the rulemaking activities.

The following list of industrial categories is organized by type of data collection activity; i.e., economic assessment, analytical sampling, or technical assessment. Data collection through these surveys will be used in supporting and establishing effluent limitation guidelines as required under Sections 301, 304, 306 and 307 of the Clean Water Act.

These data collection activities will be reviewed by the Office of Management and Budget (OMB) in light of the Federal Reports Act (144 U.S.C. 3501 et seq.) and in accordance with OMB Clearance No. 158-R-0160. This list of information gathering activities is published twice yearly in the Federal Register.

Several data collection activities mentioned in this notice were contained in EPA's Federal Register notice of Data Collection Activities dated Janary 24, 1980 or in the supplemental notice dated May 8, 1980. Data collection activities repeated in this notice did not commence during the previous reporting period.

Questions concerning economic surveys should be directed to the appropriate project officer at the following address:

U.S. Environmental Protection Agency;
Office of Water Planning and Standards,
Office of Analysis and Evaluation (WH-586),
401 M Street SW.,
Washington, D.C. 20460.

Questions concerning technical or analytical sampling surveys should be directed to the appropriate project officer at the following address:

U.S. Environmental Protection Agency,
Office of Water Planning and Standards,
Effluent Guidelines Division (WH-552),
401 M Street SW.,
Washington, D.C. 20460.

Dated: July 14, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

Economic Assessment

Copper rolling and drawing (SIC 3351)
Copper electrical wire (SIC 3357)
Estimated number of plants in sample: 30
Approximate response burden in total manhours per plant: 40
Project Officer: Harold D. Lester (202) 426-2617

Metal finishing
Estimated number of plants in sample: 140
Approximate response burden in total manhours per plant: 2
Project Officer: Joy Wagner (202) 755-2484

Analytical Sampling

Asbestos self sampling
Estimated number of plants in sample: 100
Approximate response burden in total manhours per plant: 6
Project Officer: Priscilla Holtzclaw (202) 426-7770

Pesticides (miscellaneous chemicals)
Estimated number of plants in sample: 10
Approximate response burden in total manhours per plant: 300
Project Officer: George M. Jett (202) 426-2497

Publicly owned treatment works
Estimated number of plants in sample: 14
Approximate response burden in total manhours per plant: 6
Project Officer: Robert M. Southworth (202) 426-2707

Steam-electric power generating
Subcategories: analytical self sampling of ash transport waters
Estimated number of plants in sample: 20
Approximate response burden in total manhours per plant: 40
Project Officer: John Lum and Teresa Wright (202) 426-4617

Technical Assessment

Alcohol fuels
Estimated number of plants in sample: 100
Approximate response burden in total manhours per plant: 20
Project Officer: Wendy Smith (202) 426-4617

Canned and preserved fruits and vegetables
Estimated number of plants in sample: 430
Approximate response burden in total manhours per plant: 8
Project Officer: Donald F. Anderson and Gary Kasaoka (202) 426-2707

Dairy products processing
Estimated number of plants in sample: 150
Approximate response burden in total manhours per plant: 16
Project Officer: Mark L. Mjoness (202) 426-2554

Electrical and electronic components industry (includes economic information request)
Estimated number of plants in sample: 578
Approximate response burden in total manhours per plant: 8
Project Officer: Richard J. Kinch (202) 426-2582

Inorganic chemicals
Estimated number of plants in sample: 200
Approximate response burden in total manhours per plant: 16
Project Officer: Thomas E. Fielding (202) 426-4617

Metal finishing (historical monitoring data)
Subcategories: electroplating, mechanical products
Estimated number of plants in sample: 135
Approximate response burden in total manhours per plant: 10
Project Officer: Dwight Hlustick (202) 426-2582

Off-shore oil and gas extraction
Estimated number of plants in sample: 100
Approximate response burden in total manhours per plant: 40
Project Officer: Teresa Wright (202) 426-4617

Organic chemicals/plastics and synthetic materials (historical monitoring data)
Estimated number of plants in sample: 45
Approximate response burden in total manhours per plant: 8
Project Officer: E. H. Forsht (202) 426-2497

Sugar processing point source
Subcategories: beet sugar processing
Estimated number of plants in sample: 52
Approximate response burden in total manhours per plant: 16
Project Officer: Mark L. Mjoness (202) 426-2554

Textile mills (historical monitoring data)
Subcategories: wool scouring, wool finishing, woven fabric finishing, knit fabric finishing
Estimated number of mills in sample: 10
Approximate response burden in total manhours per plant: 2
Project Officer: James Berlow (202) 426-2554

Poultry processing
Subcategories: chicken processing, turkey processing, fowl processing, duck processing, further processing only
Estimated number of plants in sample: 250
Approximate response burden in total manhours per plant: 1
Project Officer: Donald F. Anderson (202) 426-2707

Poultry processing
Subcategories: chicken processing, turkey processing, fowl processing, duck processing, further processing only
Estimated number of plants in sample: 150
Approximate response burden in total manhours per plant: 16
Project Officer: Donald F. Anderson (202) 426-2707

Pesticides (miscellaneous chemicals)
Subcategories: pesticide formulators and packagers
Estimated number of plants in sample: 200
Approximate response burden in total manhours per plant: 20
Project Officer: George M. Jett (202) 426-2497

Sugar processing

Subcategories: cane sugar refining segment
Estimated number of plants in sample: 30
Approximate response burden in total manhours per plant: 20
Project Officer: Mark L. Mjoness (202) 426-2554

[FR Doc. 80-21505 Filed 7-17-80; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1541-1]

Exemption From PSD Review for Independent Refining Corp.

Notice is hereby given that on June 12, 1980, the Environmental Protection Agency (EPA) made the determination that Independent Refining Corporation is exempt from the Prevention of Significant Deterioration (PSD) review requirements for the proposed construction of a petroleum separation facility at their existing refinery located off State Highway 124 about 2 miles northeast of Winnie, Jefferson County, Texas. This exemption has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR § 52.21(i)(5)).

No further PSD action is required for this proposed facility, since:

1. Independent Refining has obtained a State permit that meets the nonattainment requirements.

2. The modification will impact no area attaining the ozone standard.

3. The public was adequately informed by a Public Notice that was published in the *Beaumont Enterprise* on April 20, 1980. No comments were received by EPA.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this exemption is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the exemption are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air & Hazardous Materials Division, Air Program Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

Office of the Plant Manager, Independent Refining Corporation, P.O. Box 268, Winnie, Texas 77665.

Dated: July 3, 1980.

Frances E. Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80-21507 Filed 7-17-80; 8:45 am]
BILLING CODE 6560-01-M

[PP OG2290/T249; FRL 1541-8]

Isobutyric Acid; Temporary Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: A temporary exemption from the requirement of a tolerance has been issued for the active ingredient of the herbicide (plant growth regulator) isobutyric acid in or on grapes.

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor, Product Manager (PM) 25, Rm: E-359, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, 202/755-2916.

SUPPLEMENTARY INFORMATION: DBM Packing Corp., Box 517, Newman, CA 95360 has been issued a temporary exemption from the requirement of a tolerance for the herbicide isobutyric acid in or on grapes.

This temporary exemption is to permit the marketing of the above raw agricultural commodity when treated in accordance with the experimental use permit (44544-EUP-1) which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (P.L. 80-104, 61 Stat. 163, as amended by P.L. 92-561, 86 Stat. 975, P.L. 94-140, 89 Stat. 754, P.L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported show that the exemption is adequate to cover residues resulting from the proposed experimental use and that such exemption will protect the public health. Therefore, the temporary exemption from the requirement of a tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permit with the following provisions:

1. The total amount of the active ingredient of the plant growth regulator to be used will not exceed the quantity authorized by the experimental use permit.

2. DMB Packing Corp. will immediately notify the Environmental Protection Agency of any findings from the experimental use that have a bearing on safety. The company will also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the Environmental Protection Agency or the Food and Drug Administration.

This temporary exemption expires June 6, 1981. Residues in or on the above raw agricultural commodity after expiration of this temporary exemption will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and the temporary exemption. This temporary exemption may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: July 14, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-21503 Filed 7-17-80; 8:45 am]
BILLING CODE 6560-01-M

[OPP 50487; FRL 1541-7]

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants under the Federal Insecticide, Fungicide, and Roenticide Act. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedure with respect to use of pesticides for experimental purposes.

3125-EUP-173. This experimental use permit allows the use of 360 pounds of the nematocide ethyl-3-methyl-4-(methilthio)phenyl(1-methylethyl)phospporamidate on grapes to evaluate control of nematodes. A total of 50 acres are involved. The program is authorized only in the State of California.

3125-EUP-174. This experimental use permit allows the use of 1,440 pounds of the nematocide ethyl-3-methyl-4-(methylthio)pheny(1-methylethyl)phosphoramidate on grapes to evaluate control of nematodes. A total of 50 acres are involved. The program is authorized only in the State of California. This experimental use permit and the one above were issued to Mobay Chemical Corporation, Agricultural Chemicals Division, P.O. Box 4913, Kanasas City, MO 64120. A temporary tolerance for the pesticide in or on grapes at 0.1 ppm has been established. Both permits are effective from May 29, 1980 to December 31, 1982. (PM-21, Henry M. Jacoby, Room E-305, Telephone: 202/755-2562).

241-EUP-94. American Cyanamid, Agricultural Research Division, P.O. Box 400, Princeton, NJ 08540. This experimental use permit allows the use of 2,125 pounds of the insecticide (+cyano(3-phenoxyphenyl)methyl(+)-4-(difluoromethoxy)-alpha-(1-methylethyl)benzeneacetate on cotton to evaluate control of various insects. A

total of 3,800 acres are involved. The program is authorized only in the States of Alabama, Arizona, Arkansas, California, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Tennessee, and Texas. The experiental use permit was previously effective from July 23, 1979 to July 23, 1980. It is now extended from May 30, 1980 to May 31, 1981. A temporary tolerance and a feed additive tolerance have been established 21 CFR 561.99 (PM-17, Franklin D. R. Gee, Room: E-341, Telephone: 202-426-9741).

464-EUP-61. Dow Chemical Company, Agricultural Products Dept., P.O. Box 1706, Midland, MI 48640. This experimental use permit allows the use of 300 pounds of the insecticide chlorpyrifos on cotton to evaluate control of bollworms and bollweevils. A total of 100 acres are involved. The program is effective only in the State of Arizona. The program is effective from June 12, 1980 to June 12, 1981. A permanent tolerance for the residues of the active ingredient in or on cottonseed has been established (40 CFR 180.342). (Acting, PM-12, Phillip Hutton, Room: E-303, Telephone: 202-426-2637)

4581-EUP-17. Pennwalt Corporation, Food and Agricultural Division, Pennwalt Bldg., 3 Parkway, Philadelphia, PA 19102. This experimental use permit allows the use of 1,389 pounds of the fungicide dimethyl-4,4'-O-phenylene bis[3-thioallophanate] on almonds and soybeans for planting seed only to evaluate control of brown rot blossom blight on almonds and anthracnose, brown leaf spot, frog-eye leaf spot, purple seed stain, pod and stem blight on soybeans. A total of 2,222 acres of are involved. The program is authorized only in the State of California for use on almonds and in the States of Alabama, Arkansas, California, Colorado, Florida, Georgia, Illinois, Louisiana, Maryland, Mississippi, New Jersey, New York, North Carolina, Ohio, Oklahoma, South Carolina, Virginia, and Texas for use of soybeans for planting seed only. The experimental use permit is effective from June 5, 1980 to December 31, 1980. A temporary tolerance has been established for the residues of the fungicide, thiophanate-methyl(dimethyl[1,2-phenylene) bis iminiocarbonothioyl)] bis [carbanate], its oxygen analog dimethyl-4,4'-O-phenylene bis, and its benzimidazole-containing metabolites (calculated as thiophanate-methyl) in or on almonds and soybeans at 0.2 part per million. (PM-21, Henry M. Jacoby, Room: E-305, Telephone: 202-755-2562)

Persons wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA 401 M Street, SW, Washington, D.C. 20460. Inquiries regarding these permits should be directed to the contact persons given above. It is suggested that interested persons call before visiting the EPA Headquarters Office so that the appropriate file may be made available from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 92 Stat. 819 and amended (7 U.S.C. 136))

Dated: July 14, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-21504 Filed 7-17-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1542-3; OPP 180462]

Alabama Department of Agriculture and Industries; Issuance of Specific Exemption for Ethylene Dibromide on Soybeans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the Alabama Department of Agriculture and Industries for the use of ethylene dibromide (EDB) on 160,000 acres of soybeans in Alabama to control the root-knot nematode and the cyst nematode. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on July 31, 1980.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Registration Division (TS-767), Room: E-124, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460; 202/426-0223.

SUPPLEMENTARY INFORMATION: According to the Applicant, soybeans in Alabama are attacked by a variety of nematode species, the most difficult to control being the root-knot nematode (*Meloidogyne arenaria*) and the cyst nematode (*Heterodera glycines*). The Applicant claims that currently registered nematocides are inadequate for the following reasons: (1) Contact systemics have proven ineffective against mixtures of *H. glycines* and *M. arenaria* and inadequate for control of *M. arenaria;* and (2) preplant fumigants are logistically impossible for most farmers because of double-cropping practices which do not allow enough time between harvest and planting of soybeans for a one-to two-week pre-planting application. The fumigants are also very expensive and not so efficacious as EDB. Prior to 1978, DBCP was the pesticide most used for control of nematodes in soybeans; however, DBCP was suspended November 3, 1977. The Applicant also indicates that *M. arenaria* and *H. glycines* often occur simultaneously and that there are no cultivars with combined resistance to both species. According to the Applicant, crop rotation is not feasible as a control measure because of a lack of adequate rotational crops which are not hosts. Cotton, a suitable rotational crop, is in serious decline because of poor economics.

The Applicant proposed use Soilbrom 90 on approximately 160,000 acres of soybeans. An at-planting application of 1 to 2 gallons formulation per acre will be applied by means of a single or two chisel injectors per row.

The Applicant claims that unless EDB is available for use on infestations of *H. glycines* and *M. arenaria,* Alabama soybean farmers may lose as much as 20 percent to 60 percent of their crop, or approximately $12 million.

EPA has determined that residues of EDB per se from this use are below the method detectability (0.01 part per million (ppm)). Residues of inorganic bromides should not exceed 125 ppm in soybeans and 150 ppm in soybean meal. These levels have been judged adequate to protect the public health. Since the proposed use might pose an exposure problem to applicators of EDB, EPA has imposed a clothing and respirator requirement for applicators unless a "closed system" is used.

It should be noted that a rebuttable presumption against the registration of pesticide products containing EDB was published in the Federal Register of December 14, 1977 (42 FR 63134); however, no decision has yet been made by EPA as to appropriate regulatory action in this matter.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until July 31, 1980, subject to the following conditions:

1. The ethylene dibromide product Soilbrom 90 EC (EPA Reg. No. 5875-54) may be used;

2. Application of ethylene dibromide is not to exceed 32 pounds of active ingredient per acre per year;

3. Application is to be carried out in accordance with the supplemental labeling provided by the Great Lakes

Chemical Company except that use must be limited to the pests authorized by this exemption;

4. Applicators and others handling EDB must wear protective clothing and a respirator unless a "closed system" is used which prevents their coming in contact with EDB;

5. All applicable precautions and restrictions on the registered product labels are to be observed;

6. No more than 160,000 acres of soybeans are to be treated;

7. Soybean hay from treated fields may not be used for feed;

8. Residues of inorganic bromide should not exceed 125 ppm in or on soybeans or 150 ppm in soybean meal. Soybeans with less than 125 ppm and soybean meal with less than 150 ppm inorganic bromide residues may be moved in interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been notified of this action;

9. The Applicant will submit a report summarizing the results of this program by March 31, 1981 and;

10. The EPA shall be immediately notified of any adverse effects resulting from the use of EDB in connection with this exemption.

(Sec. 18, as amended (92 Stat. 819; (7 U.S.C. 136)))

Dated: July 14, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-21500 Filed 7-17-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1542-6; OPTS-51086]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the toxic Substances Control Act (TSCA): requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the Federal Register certain information about each PMN within 5 working days after receipt. This Notice announces receipt of two PMN's and provides a summary of each.

DATE: Written comments by August 16, 1980.

ADDRESS: Written comments to: Document Control officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-755-8050.

FOR FURTHER INFORMATION CONTACT: Ms. Ann Radosevich, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-426-2601.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the Federal Register of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the Federal Register issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the Federal Register nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the Federal Register.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the PMN submitter, will publish an amended Federal Register notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) Federal Register notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the Federal Register.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN are published herein.

Interested persons may, on or before August 16, 1980, submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51086]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: July 8, 1980.

Warren R. Muir,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80-138.

Close of Review Period. September 15, 1980.

Manufacturer's Identity. Claimed confidential.

Specific Chemical Identity. Benzenamine, 4,4'-methylene bis[*N*-(1-methylbutylidene).

The following summary is taken from data submitted by the manufacturer in the PMN.

Generic Use. Curing agent or crosslinker.

Production Estimates. Claimed confidential.

Physical/Chemical Properties. No data were submitted.

Toxicity Data. No data were submitted.

Exposure. During Manufacture. 1–2 workers per shift, for 8 hours per shift, for 3 shifts per day, for 25–40 days per year.

During Use. Product will be sold to approximately 100 companies. Worker exposure estimates are not available. Product is destined exclusively to industrial markets; there will be no exposure to the general public or to the consumer.

Disposal. Contaminated aqueous waste formed during manufacture and waste product will be disposed at an approved disposal facility.

PMN 80-137.

Close of Review Period. September 15, 1980.

Manufacturer's Identity. Claimed confidential.

Specific Chemical Identity. Benzenamine, 4,4'-methylene bis[*N*-(1-methylbutylidene),

The following summary is taken from data submitted by the manufacturer in the PMN.

Generic Use. Curing agent or crosslinker.

Production estimates. Claimed confidential.

Physical/Chemical Properties. No data were submitted.

Toxicity Data. No data were submitted.

Exposure. During Manufacture. 1–2 workers per shift, for 8 hours per shift, for 3 shifts per day, for 25–40 days per year.

During Use. Product will be sold to approximately 100 companies. Worker exposure estimates are not available. Product is destined exclusively to industrial markets; there will be no exposure to the general public or to the consumer.

Disposal. Contaminated aqueous waste formed during manufacture and waste product will be disposed at an approved disposal facility.

[FR Doc. 80-21498 Filed 7-17-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1542-4; OPP-180457]

Idaho State and Washington State Departments of Agriculture; Issuance of Specific Exemptions To Use Carzol To Control Two-Spotted Spider Mites on Hop Crop

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions to the Idaho and Washington State Departments of Agriculture (hereafter referred to as "Idaho," "Washington," or the "Applicants") to use Carzol SP on 2,600 acres of commercial hop crop in Idaho and 22,000 acres in Washington to control the two-spotted spider mite. These specific exemptions are issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemptions expire September 30, 1980.

FOR FURTHER INFORMATION CONTACT: Libby Welch, Office of Pesticide Programs, Registration Division (TS-767), Rm. E-124, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, 202/426-0223.

SUPPLEMENTARY INFORMATION: According to the Applicants, the two-spotted spider mite (*Tetranychus urticae* Koch) is normally present in hop yards. The Applicants allege that mites have developed resistance to registered miticides. The Applicants also stated that even though Carzol SP has a pre-harvest interval of 14 days, this pesticide has sufficient residual activity to protect the hop crops up to harvest.

Washington requested permission to use 80,960 pounds of the active ingredient (a.i.), formetanate hydrochloride to treat up to 22,000 acres of commercial hop crop, with a maximum of three applications limited to Yakima and Benton Counties. Idaho requested permission to use 9,568 pounds of the active ingredient, to treat up 2,600 acres in Canyon County. the pesticide will be applied by State-licensed commercial applicators and commercial growers using ground equipment. Washington stated that the potential economic loss from a major outbreak of the two-spotted spider mite could reach $20,000,000; and Idaho estimated a possible loss of $1,000,000.

EPA has determined that residues of formetanate hydrochloride in or on dried hops, resulting from the proposed use, should not exceed 150 parts per million (ppm). Maximum residues in beer are calculated to be 0.5 ppm. These levels have been judged adequate to protect the public health. The proposed use is not expected to pose; an unreasonable hazard to the environment.

Carzol SP (formetanate hydrochloride), when used at the proposed rates, is not expected to present any acute or chronic effects to wildlife. Because formetanate is strongly bound to soil, has limited leaching activity, and has low persistence, it does not appear to pose a threat to the aquatic environment. Although it is moderately toxic to bees and predaceous insects, bees do not work hop fields and any adverse effects to predaceous insect populations would be temporary. There are no endangered species in the treatment area, according to the Office of Endangered Species, U.S. Department of the Interior.

After reviewing the applications and other available information, EPA has determined that the criteria for a specific exemption have been met. Accordingly, the Applicants have been granted specific exemptions to use the pesticide noted above until September 30, 1980, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. Three applications of Carzol SP, EPA Reg. No. 2139-99, are authorized. The first application will be made at a dosage rate of 1.0 pound product (0.92 lb. a.i./acre). The second and third applications are to be made at three-week intervals and at a dosage rate of 1.5 pound product (1.38 lb. a.i./acre). If an unregistered label is used it must contain the identical applicable precautions and restrictions which appear on the registered label;

2. A maximum of 80,960 pounds a.i. may be used in Washington, and 9,568 pounds in Idaho;

3. Applications are authorized only when State Extension Agents or State-licensed private consultants determine that two-spotted spider mite populations are reaching levels requiring treatment with Carzol SP;

4. Applications are to be made with ground equipment of the airblast type. Either commercial growers or State-licensed commercial applicators may apply Carzol SP;

5. There is to be a pre-harvest interval of 14 days;

6. Hops refuse must not be fed to livestock;

7. Dried hops and beer with residue levels of formetanate hydrochloride not exceeding 150 ppm and 0.5 ppm, respectively, may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services has been advised of this action;

8. Idaho and Washington must each submit a full report of the resuts of this program to EPA by the end of March 1981;

9. The EPA shall be immediately informed of any adverse effects resulting from he use of Carzol SP in connection with these exemptions;

10. In order to minimize adverse effects to natural predators, precautions must be taken to avoid drift to on-target areas; and

11. All applicable label use direction, precautions, and restrictions must be followed.

(Sec. 18, as amended, (92 Stat. 819; (7 U.S.C.)))

Dated: July 14, 1980.

Douglas D. Campt,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-21499 Filed 7-17-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1542-1; OPP 50485]

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants under the Federal Insecticide, Fungicide, and Rodenticide Act. Such permits are in accordance with, and subject to, the provisions of 40 CFR 172, which defines EPA procedure with respect to use of pesticides for experimental purposes.

No. 36638-EUP-2. Cornel, an Albany International Company, Needham Heights, MA 02194. This experimental use permit allows the use of 2.9 pounds of cis-7,8, epoxy-methyl-octadecane on forest to evaluate control of mating female moths. A total of 1,440 acres are involved. The program is authorized only in the State of Massachusetts. The experimental use permit is effective from June 7, 1980 to June 7, 1981. (PM-17, Franklin D.R. Gee, Room: E-347, Telephone: 202-426-9741)

No. 201-EUP-59. Shell Chemical Co., Washington, D.C. 20036. This experimental use permit allows the use of 4,400 pounds of the insecticide fenvalerent in or on apples, beans (snap and dried), bell peppers, broccoli, cabbage, califlower, corn (fresh and grain), corn squash, cucumber, grapes, head lettuce, summer squash, and tomatoes to evaluate control of various insects. A total of 50 acres are involved. The program is authorized only in the states of Alabama, Arizona, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Mighigan, Minnesota, Missouri, Nebraska, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, Texas, Virginia, Washington, and Wisconsin. This program was previously authorized from May 23, 1979 to May 23, 1980. It is now authorized from May 23, 1980 to May 23, 1982. A temporary tolerance for the residues of the insecticide remaining in or on the above raw agricultural commodities has been established. (PM-17, Franklin D.R. Gee, Room: E-347. Telephone: 202/426-9741)

27586-EUP-15. U.S. Department of Agriculture Forest Service, Washington, D.C. 20250. This experimental use permit allows the use of the remaining amount of the insecticides a-cubebene, 4-methyl-3-heptanol, and a-multistratin in urban and forest areas to evaluate control of the Elm bark beetle. (This program was previously authorized June 15, 1979, for 7 pounds of the insecticides.) A total of 20,000 acres are involved. The program is authorized only in the States of California, Colorado, Connecticut, Illinois, Delaware, Massachusetts, Michigan, Minnesota, New York, North Carolina, Rhode Island, South Carolina, South Dakota, Virginia, Washington, and Wisconsin; and the District of Columbia. The program was previously authorized from March 30, 1979 to October 1, 1979. It is now effective from May 25, 1980 to May 25, 1981. (PM-17, Franklin D.R. Gee, Room: E-347, Telephone: 202/426-9741)

Persons wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division, (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, D.C. 20460. Inquiries regarding these permits should be directed to the contact persons given above. It is suggested that interested persons call before visiting the EPA Headquarters Office so that the appropriate file may be made available for inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 92 Stat. 189 as amended (7 U.S.C. 136))

Dated: July 14, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Program.

[FR Doc. 80-21502 Filed 7-17-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1542-2; OPP-180450]

U.S. Department of Agriculture; Issuance of Specific Exemption for Use of Diflubenzuron

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture (hereafter referred to an the "Applicant") to use Dimilin W-25 (diflubenzuron) on a total of 31,600 acres of sparsely populated forested areas in Michigan and Virginia to control the gypsy moth. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on July 31, 1980.

FOR FURTHER INFORMATION CONTACT: Libby Welch, Registration Division (TS-767), Rm. E-124, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington DC 20460, 202-426-0223.

SUPPLEMENTARY INFORMATION: The gypsy moth (*Lymantria dispar* (L)), was introduced and accidentally released in the United States in 1869. there is one generation produced each year, and the insect overwinters in the egg state. The larvae, or target stage, of the gypsy moth appear between early May and mid-June.

The Applicant proposed to use 1,025 pounds of the active ingredient diflubenzuron to treat 30,000 acres in Clare, Isabella, Mecosta, Montcalm, Osceola, and Van Buren Counties, Michigan and 1,600 acres in Floyd County, Virginia. Two applications of Dimilin would be made at a rate of 0.015 lb. active ingredient (a.i.) per acre with enough water to make one-half gallon of spray material. Dimilin is registered for a single application at rates up to 0.06 lb. a.i. per acre for forest use. This program for a maximum of two applications at 0.015 lb. a.i. per acre would reduce the total amount of diflubenzuron applied per acre by 50 percent.

The Applicant requested the use of Dimilin W-25 in a 1980 eradication program that is based on years of research on effective means of controlling this rapidly spreading pest.

The Applicant indicated that benefits from treating the isolated infestations in Michigan and Virginia are the elimination of nuisance, defoliation, tree mortality, and direct or indirect damage to watersheds which result from the activities of the gypsy moth. Removal of these isolated infestations will retard the further spread of this pest, according to the Applicant. The Applicant indicated that the use of alternative insecticides would result in some adverse effects to bees and other beneficial insects exposed in the treatment area.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until July 31, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Prior to initiation of the program, the Applicant must advise the appropriate State agencies of Michigan and Virginia;

2. At least ten days prior to any spraying, the Applicant must insure that factual information with regard to the proposed program are made available through various media to all segments of the public interest, in particular, those individuals in the immediate area of operations;

3. The product Dimilin W–25, EPA Reg. No. 148–1258, will be used. If an unregistered label is used, it must contain the identical applicable precautions and restrictions which appear on the registered label;

4. Dimilin will be applied by air at a maximum rate of 0.015 pound per acre with enough water to make one-half gallon of spray material;

5. A maximum of two applications will be made;

6. A total of 30,000 acres in Michigan and 1,600 acres in Virginia, in the counties named above, will be treated. Applications will be made only in sparsely populated forested areas as defined in 40.CFR 171.2(n);

7. A maximum of 1,025 pounds a.i. will be applied;

8. All applications will be under supervision of the Applicant and/or State Department of Agriculture employees;

9. All applicable directions, restrictions, and precautions on the EPA-registered label must be followed;

10. The EPA shall immediately be informed of any adverse effects resulting from use of Dimilin in connection with this program; and

11. The Applicant is responsible for insuring that these conditions are met and must submit a report summarizing the results of this program by February 1, 1981.

(Sec. 18, as amended (92 Stat. 819; (7 U.S.C. 136)))

Dated: July 14, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80–21507 Filed 7–17–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1543–3; OPP–180446]

Clemson University, S.C.; Issuance of Specific Exemption for Use of Ethylene Dibromide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to Clemson University, South Caroline (hereafter referred to as the "Applicant"), to use ethylene dibromide (EDB) to control nematodes on a maximum of one million acres of soybeans in South Carolina. The specific exemption is granted under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on July 31, 1980.

FOR FURTHER INFORMATION CONTACT: Patricia Critchlow, Registration Division (TS–767), Rm. E–107, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, 202/426–0223.

SUPPLEMENTARY INFORMATION: According to the Applicant, the Columbia lance nematode (*Hoplolaimus columbus*) is a serious and rapidly spreading pest of soybeans in at least nineteen counties of South Carolina where soybeans are grown intensively. The Applicant states that there are no soybean varieties with acceptable resistance to this pest. The Applicant claims that currently registered nematocides, such Nemacur, Temik, and Mocap, for at-planting use on soybeans in South Carolina are unsuitable because they are too expensive, hard to apply, and may present toxicity problems. Prior to 1978, DBCP was the nematocide of choice for control of the Columbia lance nematode in soybeans; however, DBCP was suspended November 3, 1977. According to the Applicant, soybean producers were equipped to apply DBCP with liquid fumigation applicators and continued use of a liquid nematocide is desired.

EPA has determined that residues of EDB per se from this use are below the method of detectability (0.01 part per million (ppm)). Residues of inorganic bromides should not exceed 125 ppm in soybeans and 150 ppm in soybean meal. These levels have been judged adequate to protect the public health. Since the proposed use might pose an exposure problem to applicators of EDB, EPA has imposed a clothing and respirator requirement for applicators unless a "closed system" is used.

It should be noted that a rebuttable presumption against the registration of pesticide products containing EDB was published in the Federal Register of December 14, 1977 (42 FR 63134); however, no decision has yet been made by EPA as to appropriate regulatory action in this matter.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until July 31, 1980, subject to the following conditions:

1. The ethylene dibromide products Soilbrom 90 EC (EPA Reg. No. 5875–53), Dow-Fume W–85 (EPA Reg. No. 464–121), and Ethylene Dibromide (EPA Reg. No. 464–427) may be used;

2. Application of ethylene dibromide is not to exceed 32 pounds of active ingredient per acre per year;

3. Application is to be carried out in accordance with the supplemental labeling provided by the Great Lakes Chemical Company and Dow Chemical Company, except that use must be limited to the pest authorized by this exemption;

4. Applicators and others handling EDB must wear protective clothing and a respirator unless a "closed system" is used which prevents their coming in contact with EDB;

5. All applicable precautions and restrictions on the registered product label are to be observed;

6. No more than 1,000,000 acres of soybeans are to be treated;

7. Soybean hay from treated fields may not be used for feed;

8. Residues of inorganic bromide should not exceed 125 ppm in or on soybeans or 150 ppm in soybean meal. Soybeans with less than 125 ppm and soybean meal with less than 150 inorganic bromide residues may be moved in interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been notified of this action;

9. The Division of Regulatory and Public Service Programs, Clemson University, will submit a report

summarizing the results of this program by March 31, 1981; and

10. The EPA shall be immediately notified of any adverse effects resulting from the use of EDB in connection with this exemption.

(Sec. 18, as amended (92 Stat. 819 (7 U.S.C. 136)))

Dated: July 14, 1980.

Douglas D. Campt,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-21704 Filed 7-17-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. B-4]

AM Broadcast Applications Accepted for Filing and Notification of Cutoff Date

Released: July 16, 1980.

Cutoff date: August 29, 1980.

Notice is hereby given that the following applications have been accepted for filing. Because they are in conflict with applications previously accepted for filing and listed as subject to cut-off dates for conflicting applications, no application which would be in conflict with these applications will be accepted for filing.

Petitions to deny these applications must be on file with the Commission not later than the close of business on August 29, 1980.

Minor amendments to these applications, and to the applications previously accepted for filing and in conflict with these applications, may be filed as a matter of right not later than the close of business on August 29, 1980. Amendments filed pursuant to this notice are subject to the provisions of Section 73.3572(b) of the Commission's Rules.

BP-800609AA (New), Woodstock, Virginia, Earl Judy, Jr., d.b.a., Woodstock Broadcasting Co., Req: 940 kHz, 250 W, Day.

BP-800620AC (New), Berlin, New Hampshire, Christina and Joel Martin, Req: 1230 kHz, 250 W, 1 kW-LS, U.

BP-800620AE (New), Berlin, New Hampshire, Berlin Broadcasting Company, Inc., Req: 1230 kHz, 250 W, 1 kW-LS, U.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-21472 Filed 7-17-80; 8:45 am]

BILLING CODE 6712-01-M

FM and TV Translator Applications Ready and Available for Processing and Notification of Cutoff Date

Released: July 14, 1980.

Cutoff date: August 27, 1980.

Notice is hereby given that the TV and FM translator applications listed in the attached Appendix will be considered ready and available for processing after August 27, 1980. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business of August 27, 1980 which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C., by the close of business on August 27, 1980.

Petitions to deny any application on this list must be on file with the Commission no later than the close of business on August 27, 1980.

UHF TV Translator Applications

BPTT-791207IG (New), Birchdale, Loman & Black River Rural areas, Minnesota, county of Koochiching. Req: Channel 56, 722-728 MHz, 100 watts, primary: KDLH-TV, Duluth, Minnesota.

BPTT-791207IH (New), Big Falls & Rural areas, Minnesota, county of Koochiching. Req: Channel 60, 746-752 MHz, 100 watts, primary: KBJR-TV, Duluth, Minnesota.

BPTT-791207II (New), Big Falls & Rural area, Minnesota, county of Koochiching. Req: Channel 62, 758-764 MHz, 100 watts, primary: KDLH-TV, Duluth, Minnesota.

BPTT-791218IA (K70DU), Wabasha, Minnesota, Hubbard Broadcasting, Inc. Req: Change frequency to Channel 57, 728-734 MHz.

BPTT-800121IH (New), Robinson, Illinois, Full Gospel Business Men's Fellowship, International Robinson, Illinois Chapter. Req: Channel 57, 728-734 MHz, 100 watts, primary: WJAN-TV, Canton, Ohio.

BPTT-800201IA (New), Malad, Idaho, Oneida County Translator District. Req: Channel 56, 722-728 MHz, 100 watts, primary: KSTU-TV, Salt Lake City, Utah.

BPTT-800211IO (New), Fabius, New York, Gerald E. Devine. Req: Channel 68, 794-800 MHz, 100 watts, primary: KLXA-TV, Santa Ana, California.

BPTT-800213ID (New), Burley, Rupert, Albion, Idaho, The KLIX Corporation. Req: Channel 59, 740-746 MHz, 100 watts, primary: KMVT-TV, Twin Falls, Idaho.

BPTT-800219IB (New), Tucson, San Manuel & Redington, Arizona, roadrunner Television Limited Partnership. Req: Channel 27, 548-554 MHz, 1000 watts, primary: KZAZ-TV, Nogales, Arizona.

BPTT-800219ID (New), Overton, Logandale, Glendale, Moapa area, Nevada, Moapa Valley TV Maintenance District. Req: Channel 69, 800-806 MHz, 20 watts, primary: KTVX-TV, Salt Lake City, Utah.

BPTT-800225IC (New), Frederick, Oklahoma, Oklahoma Educational Television Authority. Req: Channel 56, 722-728 MHz, 100 watts, primary: KWET-TV, Cheyenne, Oklahoma.

BPTT-800226IF (New), Flagstaff, Arizona, Merdith Corporation. Req: Channel 64, 770-776 MHz, 100 watts, primary: KPHO-TV, Phoenix, Arizona.

BPTT-800226IG (New), Adams, North Adams & Williamstown, Massachusetts, Bennington, Vermont, Sonderling Broadcasting Corporation. Req: Channel 51, 692-698 MHz, 1000 watts, primary: WAST-TV, Albany, New York.

BPTT-800304IA (New), The Dalles/Goldendale, Oregon, Washington, Mid Columbia TV Corporation. Req: Channel 64, 710-716 MHz, 100 watts, primary: KOIN-TV, Portland, Oregon.

BPTT-800313IE (New), Ashford, Elbe & Mineral, Washington, Pierce County Television Reception Improvement, District #1. Req: Channel 54, 710-716 MHz, 20 watts, primary: KOMO-TV, Seattle, Washington.

BPTT-800313IG (New), Ashford, Elbe & Mineral, Washington, Pierce County Television Reception Improvement, District #1. Req: Channel 58, 734-740 MHz, 20 watts, primary: KING-TV, Seattle, Washington.

BPTT-800314IB (New), Blanding, Monticello, Utah, San Juan County. Req: Channel 42, 638-644 MHz, 100 watts, primary: KSL-TV, Salt Lake, Utah.

BPTT-800314IC (New), Blanding Monticello, Utah, San Juan County. Req: Channel 44, 650-656 MHz, 100 watts, primary: KTVX-TV, Salt Lake, Utah.

BPTT-800314ID (New), Blanding Monticello, Utah, San Juan County. Req: Channel , 46, 662-668 MHz, 100 watts. Primary: KUTV-TV, Salt Lake, Utah.

BPTT-800319IC (New), Cashmere, Washington, Upper Wenatchee Valley TV Association, Inc. Req: Channel 40, 626-632 MHz, 100 watts. Primary: KCTS-TV, Seattle, Washington.

BPTT-800326IA (New), Bicknell, Teasdale & Torrey, Utah, County of Wayne. Req: Channel 42, 638-644 MHz, 100 watts. Primary: KSTU-TV, Salt Lake City, Utah.

BPTT-800406IB (New), Klamath Falls, Oregon, Inspiration Television Southern Oregon. Req: Channel 58, 734-740 MHz, 100 watts. Primary: KTBN-TV, Fontana, California.

BPTT-800411IE (New), Eugene, Oregon, Full Gospel Business Men's Fellowship, International Eugene, Oregon Chapter. Req: Channel 59, 740-746 MHz, 100 watts. Primary: WJAN-TV, Canton, Ohio.

BPTT-800414IA (New), Livingston & Paradise Valley, Montana, Paradise Valley TV District. Req: Channel 63, 764-770 MHz, 100 watts. Primary: KECI-TV, Missoula, Montana.

BPTT-800414IK (New), Rural Elgin, La Grande Union, North Power, Haines, Baker, Oregon, Blue Mt. Translator District. Req: Channel 62, 758-764 MHz, 100 watts. Primary: KPTV-TV, Portland, Oregon.

BPTT-800422IB (New), Tallahassee, Florida, Octagon Broadcasting Company. Req: Channel 40, 626-632 MHz, 1000 watts. Primary: WMBB-TV, Panama City, Florida.

BPTT-800424IA (New), Milwaukee, Wisconsin, Weigel Broadcasting Company.

Req: Channel 55, 716–722 MHz, 1000 watts. Primary: WCIU-TV, Chicago, Illinois.

BPTT–800425IB (New), Oak Creek, Colorado, Yampa Valley TV Association. Req: Channel 69, 800–806 MHz, 100 watts. Primary: KWGN-TV, Denver, Colorado.

BPTT–800429IA (New), Andalusia, Alabama, Southeast Alabama Broadcasting Company, Inc. Req: Channel 55, 716–722 MHz, 1000 watts. Primary: WDHN-TV, Dothan, Alabama.

BPTT–800501IA (New), Escondido, Rancho Bernardo, Poway, California, Oak Systems, Inc. Req: Channel 57, 728–734 MHz, 100 watts. Primary: KBSC-TV, Corona, Califonia.

BPTT–800505IK (New), Ocala, Florida, Gainesville Television, Inc., Req: Channel 57, 728–734 MHz, 100 watts. Primary: WCJB-TV, Gainesville, Florida.

BPTT–800507IE (New), Albuquerque, New Mexico, Graciela Olivarez. Req: Channel 48, 674–680 MHz, 1000 watts. Primary: KMEX-TV, KWEX, Los Angeles, California.

BPTT–800509IK (K70DY), Bagdad, Arizona, Cyprus Bagdad Copper Company. Req: Change frequency to Channel 69, 800–806 MHz.

BPTT–800509IL (K72CR), Bagdad, Arizona, Cyprus Bagdad Copper Company. Req: Change frequency to Channel 67, 788–794 MHz.

BPTT–800509IM (K74CW), Bagdad, Arizona, Cyprus Bagdad Copper Company. Req: Change frequency to Channel 61, 752–758 MHz.

BPTT–800509IN (K76CG), Bagdad, Arizona, Cyprus Bagdad Copper Company. Req: Change frequency to Channel 63, 764–770 MHz.

BPTT–800509IO (K78CB), Bagdad, Arizona, Cyprus Bagdad Copper Company. Req: Change frequency to Channel 63, 776–782 MHz.

BPTT–800520IA (New), Emigrant & Rural Area, Montana, Paradise Valley TV District. Req: Channel 57, 728–734 MHz, 100 watts. Primary: KULR-TV, Billings, Montana.

BMPTT–791214IH (K57BD), Tucson, Et Al Arizona, Trinity Broadcasting of Arizona, Inc. Req: Delete Green Valley, Bisbee Sierra Vista, Sonoita and Patagonia from principal community.

VHF TV Translator Applications

BPTTV–791220IB (New), New Castle, Peach Valley & Canyon Creek, Colorado, Garfield County. Req: Channel 3, 60–66 MHz, 10 watts. Primary: KRMA-TV, Denver, Colorado.

BPTTV–800102IH (New), Homes Along US 395 S. of Mt. Patterson to Bridgeport & Twin Lakes, California, Mono County Service Area No. 5. Req: Channel 7, 174–180 MHz, 1 watt. Primary: KXTV-TV, Sacramento, California.

BPTTV–800104IP (New), East Price, Utah, Carbon County. Req: Channel 2, 54–60 MHz, 10 watts. Primary: KUTV-TV, Salt Lake City, Utah.

BPTTV–800121ID (New), Duckwater, Currant, Railroad Valley, Nevada Railroad Valley General Improvement District. Req: Channel 7, 174–180 MHz, 10 watts. Primary: KTVX-TV, Salt Lake City, Utah.

BPTTV–800123ID (New), Alamo, Ash Springs, Hiko in Pahranagat Valley, Delmar Valley, Nevada, Pahranagat Valley Television District LSL East. Req: Channel 11, 199–204 MHz, 1 watt. Primary: KSAL-TV, Salt Lake City, Utah.

BPTTV–800213IB (New), Tanana, Alaska, City Of Tenana. Req: Channel 2, 54–60 MHz, 10 watts. Primary: KYUK-TV, Bethel, KTOO-TV, Juneau, KUAC-TV, Fairbanks, KAKM-TV, KIMO-TV, KTVA-TV, KENI, TV, Anchorage, Alaska.

BPTTV–800213IC (New), Chevak, Alaska, City Of Chevak. Req: Channel 9, 186–192 MHz, 10 watts. Primary: KUAC-TV, Fairbanks, KYUK-TV, Bethel, KTOO-TV, Juneau, KAKM-TV, KIMO-TV, KTVA-TV, KENI, TV, Anchorage, Alaska.

BPTTV–800219IC (New), Rawlins, Wyoming, Hi Ho Broadcasting Corporation of Wyoming. Req: Channel 11, 198–204 MHz, 100 watts. Primary: KWRB-TV, Riverton, Wyoming.

BPTTV–800222ID (New), Somerset, Colorado, Somerset TV Association. Req: Channel 12, 204–210 MHz, 1 watt. Primary: KREX-TV, Grand Junction, Colorado.

BPTTV–800226IE (New), Amalia, New Mexico, Amalia TV Translator Association. Req: Channel 6, 8–88 MHz, 1 watt. Primary: KNME-TV, Alburquerque, New Mexico.

BPTTV–800228B (New), Ridgway, Colorado, Ridgway TV Association. Req: Channel 13, 210–216 MHz, 10 watts. Primary: KJCT-TV, Grand Junction, Colorado.

BPTTV–800303IE (New), Polson Rollins, Elmo Dayton, Montana, Blacktail TV Tax District. Req: Channel 10, 192–198 MHz, 5 watts. Primary: KREM-TV, Spokane, Washington.

BPTTV–800303IP (New), Lander, Riverton, Ft. Washakie, Wyoming, Harriscope Broadcasting Corporation. Req: Channel 4, 66–72 MHz, 100 watts. Primary: KTWO-TV, Casper, Wyoming.

BPTTV–800307IB (New), Elmo, Big Arm, Dayton, Montana, Blacktail TV Tax District. Req: Channel 7, 174–180 MHz, 10 watts. Primary: KXLY-TV, Spokane, Washington.

BPTTV–800317II (New), Del Bonita & Surrounding Community, Montana, Del Bonita TV Club. Req: Channel 11, 198–204 MHz, 1 watt. Primary: KRTV-TV, Great Falls, Montana.

BPTTV–800318IC (New), Chuathbaluk, Alaska, Chuathbaluk City Council. Req: Channel 9, 186–192 MHz, 10 watt. Primary: KUAC-TV, Fairbanks, KYUK-TV, Bethel, KTOO-TV, Juneau, KAKM-TV, KIMO-TV, KTVA-TV, KENI, TV, Anchorage, Alaska.

BPTTV–800318ID (New), Marshall, Alaska, I. R. A. Council of Marshall. Req: Channel 7, 174–180 MHz, 10 watts. Primary: KUAC-TV, Fairbanks, KYUK-TV, Bethel, KTOO-TV, Juneau, KAKM-TV, KIMO-TV, KTVA-TV, KENI, TV, Anchorage, Alaska.

BPTTV–800319IB (New), Cedar Fort, Utah. Town of Cedar Fort. Req: Channel 13, 210–216 MHz, 100 watts. Primary: KSL-TV, Salt Lake City, Utah.

BPTTV–800324IC (New), Ashland & Rural Area, Montana, Ashland Television District. Req: Channel 6, 82–88 MHz, 10 watts. Primary: KULR-TV, Billings, Montana.

BPTTV–800331IG (New), The Dalles, Goldendale, Oregon Washington, Mid-Columbia TV Corporation. Req: Channel 61, 752–758 MHz, 10 watts. Primary: KATU-TV, Portland, Oregon.

BPTTV–800331IJ (New), Grand Canyon, Arizona, Grand Canyon Recreation Association. Req: Channel 6, 82–88 MHz, 1 watt. Primary: KAET-TV, Phoenix, Arizona.

BPTTV–800331IK (New), Great Falls, South Carolina, Capital Communications, Inc. Req: Channel 5, 76–82 MHz, 1 watt. Primary: WLTX-TV, Columbia, South Carolina.

BPTTV–800401IC (New), Anaconda, Montana, Capital City Television, Inc. Req: Channel 2, 54–60 MHz, 100 watts. Primary: KTCM-TV, Helena, Montana.

BPTTV–800408IA (New), Russian Mission, Alaska, Russian Mission Village Council. Req: Channel 11, 198–204 MHz, 10 watts. Primary: KYUK-TV, Bethel, KUAC-TV, Fairbanks, KTOO-TV, Juneau, KAKM-TV, KIMO-TV, KTVA-TV, KENI-TV, Anchorage, Alaska.

BPTTV–800411IA (New), Twisp & Winthrop, Washington, Television Reception District #2 of Okanogan County. Req: Channel 13, 210–216 MHz, 5 watts. Primary: KSPS-TV, Spokane, Washington.

BPTTV–800414IJ (New), Ukiah, Albee, Lehman Springs, Etal, Oregon, Blue Mt. Translator District. Req: Channel 38, 614–620 MHz, 20 watts. Primary: KPTV-TV, Portland, Oregon.

BPTTV–800414IL (New), Kanarraville & New Harmony, Utah, Iron County. Req: Channel 2, 54–60 MHz, 10 watts. Primary: KUED-TV, Salt Lake City, Utah.

BPTTV–800424IB (New), Riverton & Rural Area, Wyoming, Riverton Fremont TV Club, Inc. Req: Channel 12, 204–210 MHz, 5 watts. Primary: KCWY-TV, Casper, Wyoming.

BPTTV–800425IA (New), Toponas, Colorado, Yampa Valley TV Association. Req: Channel 10, 192–198 MHz, 10 watts. Primary: KBTV-TV, Denver, Colorado.

BPTTV–800507IC (New), Ashton, Idaho, Upper Valley Translator Committee. Req: Channel 5, 76–82 MHz, 5 watts. Primary: KPVI-TV, Pocatello, Idaho.

BPTTV–800507ID (New), Rexburg, St. Anthony, Idaho, Upper Valley Translator Committee. Req: Channel 13, 210–216 MHz, 10 watts. Primary: KPVI-TV, Pocatello, Idaho.

BPTTV–800528IB (New), Newark & Brookside, Delaware, Francis J. Tafelski. Req: Channel 61, 752–758 MHz, 100 watts. Primary: WGCB-TV, Red Lion, Pennsylvania.

BPTTV–800529IA (New), Covelo, California, Round Valley Chamber of Commerce. Req: Channel 9, 186–192 MHz, 1 watt. Primary: KEET-TV, Eureka, California.

BPTTV–800529IC, K09KX, Covelo, California, Round Valley Chamber of Commerce. Req: Change frequency to Channel 11, 198–204 MHz.

FM Translator Applications

BPFT–800122IB (New), Cottage Grove, Oregon, Lane Community College. Req: Channel 218, 91.5 MHz, 10 watts. Primary: KLCC-FM, Eugene, Oregon.

BPFT–800311IA (New), Steamboat Springs, Colorado, Chermi Communications Corporation. Req: Channel 288, 105.5 MHz, 1 watt. Primary: KFMU–FM, Oak Creek, Colorado.

BPFTB–800215IA (New) Long Beach, California, Harden Broadcasting Company. Req: Channel 288, 105.5 MHz, 10 watts. Primary: KNAC–FM, Long Beach, California.

UHF TV Translator Applications

BPTT–800131IB (New), Romeo, La Jara, Manassa, Antonito & Alamosa, Colorado, Capitol of Colorado Corporation. Req: Channel 57, 728–734 MHz, 100 watts. Primary: KKTV–TV, Colorado Springs, Colorado.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80–21615 Filed 7–17–80; 8:45 am]

BILLING CODE 6712–01–M

Seventh Meeting of the Advisory Committee on AM Broadcasting in Region 2

July 14, 1980.

Pursuant to Public Law 92–463, notice is hereby given of the Seventh meeting of "The Advisory Committee on AM Broadcasting in Region 2" on Tuesday, August 5, 1980, beginning at 9:30 A.M. in Room A–110 of the FCC Annex, 1229 20th Street, NW., Washington, D.C.

The Agenda will be as follows:

1. Call to order by the Chairman.
2. Announcements.
3. Approval of minutes of previous meeting.
4. Presentation and discussion of advisory papers for use by U.S. Panel of Experts and CITEL Working Group.
5. Other Business.
6. Next meeting date and adjournment.

All interested parties are invited to attend, and may submit comments, in writing, addressed to Mr. Gary L. Standford, Broadcast Bureau, Federal Communications Commission, 2025 "M" Street, NW., Room 8114B, Washington, D.C. 20554.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80–21614 Filed 7–17–80; 8:45 am]

BILLING CODE 6712–01–M

[Docket No. 19660; RM–690]

International Record Carrier's Scope of Operations in the Continental United States, Including Possible Revisions to the Formula Prescribed Under Section 222 of the Communications Act; Correction

AGENCY: Federal Communications Commission.

ACTION: Correction.

SUMMARY: Erratum issued to include omitted Appendix B in Order released July 3, 1980, 45 FR 31491, prescribing a solution to the access problem at the four INTELSAT earth stations in the continental United States.

DATES: Non-applicable.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: William F. Adler or Stuart Chiron, Common Carrier Bureau, 202–632–7265.

Released: July 14, 1980 (*See* 45 FR 31491).

By the Common Carrier Bureau:

The Order in the above-entitled matter, Mimeo No. 33141, released July 3, 1980, omitted Appendix B which is found below.

Appendix B

WUI's proposed revision of Paragraph 9(f) of the Memorandum of Understanding.

Paragraph 9f. Upon the release of any FCC decision or enactment of any legislation permitting Comsat to provide retail services, other than TV, from earth stations covered by this Agreeement in competition with any other party to this Agreement:

(1) Any IRC may, at its option, notify Comsat in writing (with copies to the other parties hereto) to continue providing only those services under paragraphs 1(a) and 1(b) above at the annual charges of $400; to discontinue providing those services under paragraph 1(c) above; to desist billing said IRC the minimum monthly charges under paragraph 7(b) above; and to accord said IRC access under paragraph 5 above in order that it can provide its own services of the nature specified under paragraph 1(c) above. The foregoing shall become effective simultaneously no later than 90 days after the issuance by any IRC of the notice mentioned above in this paragraph. If any additional space is required at any earth station by virtue of any IRC option exercise, as mentioned in this paragraph, said space shall be provided in accordance with Section 7.3 of the Earth Station Ownership Agreement of March 23, 1967; or

(2) Any IRC may terminate its obligations under this Agreement without penalty or request renegotiation of its terms and conditions by providing all other parties with 30 days written notice. Following any such renegotiation, or inability to agree, the same FCC procedure specified in Paragraph 98 of 76 FCC 2d 115, 147, shall apply in the same manner as it applied to this Agreement at its inception.

Federal Communications Commission.

William F. Adler,

Chief, International Facilities, Authorization & Licensing Division, Common Carrier Bureau.

[FR Doc. 80–21613 Filed 7–17–80; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 80–41]

Port Authority of New York and New Jersey v. West Coast of Italy, Sicilian and Adriatic Ports North Atlantic Range Conference, and Its Individual Members; Filing of Complaint and Assignment

Notice is given that a complaint filed by The Port Authority of New York and New Jersey against the West Coast of Italy, Sicilian and Adriatic Ports North Atlantic Range Conference and Its Individual Members was served June 19, 1980. The complaint alleges that respondents' tariff provision which requires all member lines serving the Port of New York/New Jersey to charge $55.00 per container for drayage to the Conrail Portside Terminal results in violation of sections 15, 16, and 17 of the Shipping Act, 1916 and section 205 of the Merchant Marine Act, 1936.

This proceeding has been assigned to Administrative Law Judge William Beasley Harris. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 80–21619 Filed 7–17–80; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Aetna Bancorp, Inc.; Formation of Bank Holding Company

Aetna Bancorp, Inc., Chicago, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Aetna Bank,

Chicago, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 11, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-21454 Filed 7-17-80; 8:45 am]

BILLING CODE 6210-01-M

Centran Corp.; Acquisition of Bank

Centran Corporation, Cleveland, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of The Franklin Bank, Columbus, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than August 1, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-21459 Filed 7-17-80; 8:45 am]

BILLING CODE 6210-01-M

First National Bancorp, Inc.; Formation of Bank Holding Company

First National Bancorp., Inc., Shreveport, Louisiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of The First National Bank of Shreveport, Shreveport, Louisiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 11, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 14, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-21457 Filed 7-17-80; 8:45 am]

BILLING CODE 6210-01-M

Guaranty Bancshares, Inc.; Formation of Bank Holding Company

Guaranty Bancshares, Inc., Strafford, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 87.04 per cent or more of the voting shares of The Greene County Bank, Strafford, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 11, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 14, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-21458 Filed 7-17-80; 8:45 am]

BILLING CODE 6210-01-M

Hector Securities & Investment Co.; Proposed Continuation of Credit-Related Insurance Activities

Hector Securities and Investment Company, Minneapolis, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in the sale of hail crop insurance in connection with extensions of credit by Fidelity State Bank of Hector, Hector, Minneapolis, its subsidiary bank. These activities would be performed from offices in Hector, Minneapolis, and the geographic areas to be served include the city of Hector and the surrounding area of Renville County, Minnesota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 1, 1980.

Board of Governors of the Federal Reserve System, July 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-21453 Filed 7-17-80; 8:45 am]

BILLING CODE 6210-01-M

National Bancshares, Inc.; Formation of Bank Holding Company

National Bancshares, Inc., Melrose Park, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to Melrose Park National Bank, Melrose Park, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 11, 1980. Any comment on an appliction that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 14, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-21455 Filed 7-17-80; 8:45 am]

BILLING CODE 6210-01-M

Wilshire Bancorporation; Formation of Bank Holding Company

The Wilshire Bancorporation, Los Angeles, California, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of The Wilshire Bank, N.A., Los Angeles, California, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 11, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 14, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-21456 Filed 7-17-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than August 11, 1980.

A. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. Security Pacific Corp., Los Angeles, California (financing and credit-related life, accident and health insurance activities; New York): to engage through its subsidiaries Security Pacific Finance Corp. (formerly American Finance Corporation) and Security Pacific Finance Credit Services, Inc. (formerly American Budget Corporation), in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company and acting as broker or agent for the sale of credit-related life, accident and health insurance. These activities would be conducted from offices of Security Pacific Finance Corp. and Security Pacific Finance Credit Services, Inc., located in Guilderland, New York, serving the State of New York. This application is for the relocation of existing offices of American Finance Corporation (in the process of changing its corporate name to Security Pacific Finance Corp.) and American Budget Corporation (in the process of changing its corporate name to Security Pacific Finance Credit Services, Inc.) which are currently located in Elsmore, New York.

2. Security Pacific Corp., Los Angeles, California (financing and credited-related insurance activities; Ohio): To engage through its subsidiaries Security Pacific Finance Corp. of Ohio (formerly American Finance Corporation of Columbus) and Security Pacific Finance Corp. (formerly American Finance Corporation of Ohio), in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company and acting as broker or agent for the sale of credit-related property and casualty insurance. The activities would be conducted from offices of Security Pacific Finance Corp. of Ohio and Security Pacific Finance Corp. in Parma Heights, Ohio, serving the State of Ohio.

3. Seafirst Corp., Seattle, Washington (industrial banking and insurance activities; Colorado): to engage through *de novo* subsidiaries, Seafirst Community Banking Corporation (a direct subsidiary) and Seafirst Industrial Bank of University Hills (a wholly-owned subsidiary of Seafirst Community Banking Corporation) in industrial banking activities as authorized by Colorado law. Such activities will include accepting savings deposits, certificates of deposits; making loans and other extensions of credit, including personal credit lines, both secured and unsecured, second

mortgages, and small business loans; and acting as an agent or broker for the sale of life, accident and health insurance directly related to its extensions of credit. This subsidiary will serve the State of Colorado from an office in Denver.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, July 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-21482 Filed 7-17-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than August 13, 1980.

A. *Federal Reserve Bank of Chicago* (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

First Wyanet Investment Corp., Galesburg, Illinois (insurance activities; Illinois): to continue to engage in general insurance activities in a town of less than 5,000; activities include selling homeowners, automobile, business and personal liability, fire and extended coverage for business buildings, life insurance of all kinds, health insurance for individuals and groups, and workmen's compensation insurance for business and industry. These activities are conducted from an office in Wyanet, Illinois, serving Bureau, Marshall, and Putnam counties in Illinois. Comments on this application must be received by August 8, 1980.

B. *Federal Reserve Bank of Kansas City* (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

Union Bancorporation, Inc., Oklahoma City, Oklahoma (finance and lending activities; Oklahoma): to engage, through a subsidiary, Union Loan & Thrift Company, in the following activities: making or acquiring and servicing loans and other extensions of credit, including secured and unsecured consumer, commercial, and agricultural loans, installment sales contracts and other forms of receivables, and such other types of loans and extensions of credit and financial activites as are customarily made or acquired by a finance company operating in a manner authorized by Oklahoma law. These activities would be conducted from an office of applicant's subsidiary in Oklahoma City, Oklahoma, serving Oklahoma County, Oklahoma.

C. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Crocker National Corp., San Francisco, California (mortgage lending and loan servicing activites: United States): to engage through its subsidiary Crocker Mortgage Company, Inc., in mortgage lending and loan servicing activities. These activities will be conducted from offices at 404 Camino del Rio South, San Diego, California 92101, serving the United States.

D. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve syste, July 14, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

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[FR Doc. 80-21483 Filed 7-17-80; 8:45 am]

BILLING CODE 6210-01-M

Metropolitan Bancorporation; Acquisition of Bank

Metropolitan Bancorporation, Tampa, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 88.45 percent of the voting shares of First Bank and Trust Company, Belleair Bluffs, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 11, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-21481 Filed 7-17-80; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Domestic Policy Directive of May 20, 1980

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on May 20, 1980.[1]

The information reviewed at this meeting suggests a marked contraction in real GNP in the current quarter. In April the dollar value of total retail sales declined substantially for the third consecutive month. Industrial production and nonfarm payroll employment were curtailed sharply, and the unemployment rate rose from 6.2 to 7.0 percent. Private housing starts, which had declined throughout the first quarter to a relatively low rate, edged down further in April. The overall rise in prices of goods and services has remained rapid in recent months, although in April the rise in producer prices of finished goods was slowed by

[1] The Record of Policy Actions of the Committee for the meeting of May 20, 1980, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

a large decrease in foods and by a lessening of the rapid rise in energy items. Over the first four months of the year, the rise in the index of average hourly earnings was somewhat less than the rapid pace recorded in 1979.

The downward pressure on the dollar in exchange markets that emerged in early April has continued over most of the past four weeks, in response primarily to the sharp decline in U.S. interest rates relative to foreign interest rates; the trade-weighted value of the dollar against major foreign currencies has declined about 3½ percent. The U.S. foreign trade deficit was substantially larger in the first quarter of 1980 than in the preceding quarter, despite a considerable decline in March from the average in the preceding two months.

M–1A and M–1B contracted sharply further in April, and M–2 also declined. Commercial bank credit, both loans and investments, contracted in April after having slowed substantially in March. Over recent weeks, market interest rates have declined sharply further.

Taking account of past and prospective economic developments, the Federal Open Market Committee seeks to foster monetary and financial conditions that will resist inflationary pressures while encouraging moderate economic expansion and contributing to a sustainable pattern of international transactions. At its meeting on February 4–5, 1980, the Committee agreed that these objectives would be furthered by growth of M–1A, M–1B, M–2, and M–3 from the fourth quarter of 1979 to the fourth quarter of 1980 within ranges of 3½ to 6, 4 to 6½, 6 to 9, and 6½ to 9½ percent respectively. The associated range for bank credit was 6 to 9 percent.

In the short run, the Committee seeks expansion of reserve aggregates consistent with growth of M–1A, M–1B, and M–2 at rates high enough to promote achievement of the Committee's objectives for monetary growth over the year, provided that in the period before the next regular meeting the weekly average federal funds rate remains within a range of 8½ to 14 percent.

If it appears during the period before the next meeting that the constraint on the federal funds rate is inconsistent with the objective for the expansion of reserves, the Manager for Domestic Operations is promptly to notify the Chairman who will then decide whether the situation calls for supplementary instructions from the Committee.

By order of the Federal Open Market Committee, July 11, 1980.

Murray Altmann,

Secretary.

[FR Doc. 80-21841 Filed 7-17-80; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Authorization for Foreign Currency Operations

In accordance with the Committee's rules regarding availability of information, notice is given that on May 20, 1980, the Committee approved an increase from $300 million to $500 million in the System's swap arrangement with the Bank of Sweden and the corresponding amendment to paragraph 2 of the authorization for foreign currency operations, effective May 23, 1980, for a period of one year. With this change paragraph 2 reads as follows:

2. The Federal Open Market Committee directs the Federal Reserve Bank of New York to maintain reciprocal currency arrangements ("swap" arrangements) for the System Open Market Account for periods up to a maximum of 12 months with the following foreign banks, which are among those designated by the Board of Governors of the Federal Reserve System under § 214.5 of Regulation N, Relations with Foreign Banks and Bankers, and with the approval of the Committee to renew such arrangements on maturity:

	Amount of arrangement (millions of dollars equivalent)
Foreign bank:	
Austrian National Bank	250
National Bank of Belgium	1,000
Bank of Canada	2,000
National Bank of Denmark	250
Bank of England	3,000
Bank of France	2,000
German Federal Bank	6,000
Bank of Italy	3,000
Bank of Japan	5,000
Bank of Mexico	700
Netherlands Bank	500
Bank of Norway	250
Bank of Sweden	500
Swiss National Bank	4,000
Bank for International Settlements:	
Dollars against Swiss francs	600
Dollars against authorized European currencies other than Swiss francs	1,250

Any changes in the terms of existing swap arrangements, and the proposed terms of any new arrangements that may be authorized, shall be referred for review and approval to the Committee.

By order of the Federal Open Market Committee, July 11, 1980.

Murray Altmann,

Secretary.

[FR Doc. 80-21842 Filed 7-17-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Delegation of Authority; Designation of Custodians

Notice is hereby given that, pursuant to Reorganization Plan No. 4 of 1961, the Commission has delegated to the Director of the Bureau of Consumer Protection, to the Director of the Bureau of Competition, and to the Director of each of the Commission's regional offices, with power to redelegate as necessary, the authority to designate a custodian and deputy custodian for documents subject to the provisions of Section 21(b) of the Federal Trade Commission Act, 15 U.S.C. 57b–2(b), if a custodian and deputy custodian are not designated in the compulsory process pursuant to which the documents were obtained.

By direction of the Commission dated July 3, 1980.

Carol M. Thomas,

Secretary.

[FR Doc. 80-21520 Filed 7-17-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 79P–0444/CP]

Tomato Juice Deviating From Identity Standard; Amendment of Temporary Permit for Market Testing

Correction

In FR Doc. 80–19673, in the issue of Tuesday, July 1, 1980, appearing on page 4401 please make the following correction:

In the third column, the seventh line from the top, the word "northeastern" should be corrected to read "northwestern".

BILLING CODE 1505-01-M

Compilation of Preambles for Administrative Practices and Procedures Documents; Cumulative Supplement; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of a cumulative supplement of the preamble compilation. This supplement contains significant preambles of published Federal Register documents relating to Administrative Practices and Procedures regulations, from April 1978 through March 1979.

ADDRESS: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Lola Batson, Federal Register Writer's Office (HFC-11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: The preamble compilation series has been structured around the current organizational scheme for Food and Drug Administration regulations issued under Chapter I of Title 21 of the Code of Federal Regulations. This compilation is part of a comprehensive effort to make available to the public and the agency a central source for tracing, by subject, the historical development of agency regulations.

The notice of availability for the Administrative Practices and Procedures original volume was published in the Federal Register of June 6, 1980 (45 FR 38150). The agency will publish in the Federal Register a notice of availability for each volume and pocket supplement as they become available.

The supplement for the Administrative Practices and Procedures volume may be purchased from the Superintendent of Documents (address above) for $3.25. To order, reference GPO stock No. 017-015-00169-5.

Dated: July 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-21464 Filed 7-17-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80M-0246]

C. R. Bard, Inc.; Premarket Approval of USCI ® Gruntzig Dilaca ® Coronary Artery Balloon Dilatation Catheter

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the USCI ® Gruntzig Dilaca ® Coronary Artery Balloon Dilatation Catheter sponsored by C. R. Bard, Inc., Murray Hill, NJ. After reviewing the recommendation of the Circulatory Systems Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by August 18, 1980.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Henry A. Goldstein, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-8162.

SUPPLEMENTARY INFORMATION: The sponsor, C. R. Bard, Inc., Murray Hill, NJ, submitted an application for premarket approval of the USCI ® Gruntzig Dilaca ® Coronary Artery Balloon Dilatation Catheter to FDA on June 18, 1979. The application was reviewed by the Circulatory Systems Devices Panel, and FDA advisory committee, which recommended approval of the application. On March 24, 1980, FDA approved the application by a letter to the sponsor from the Director of the Bureau of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the office of the Hearing Clerk (address above) and is available upon request from that office. Requests should be identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition must be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). a petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before August 18, 1980, file with the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document. Received petitions may be seen in the above named office from 9 a.m. to 4 p.m., Monday through Friday.

Dated July 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-21465 Filed 7-17-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80N-0271]

International Drug Scheduling Convention on Psychotropic Substances

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) requests interested persons to submit data or comments concerning whether to impose international manufacturing and distribution restrictions on nine anorectic drugs. This information will be considered in preparing recommendations about the potential international restrictions on these drugs which are used as adjuncts in weight reduction in the obese. The issuance of this notice requesting this information is required by law.

DATE: Comments by August 18, 1980.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Edwin V. Dutra, Bureau of Drugs (HFD-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6490.

SUPPLEMENTARY INFORMATION: The United States is a party to the 1971 Convention on Psychotropic Substances. Article 2 of the Convention provides that if a party to the Convention or the World Health Organization (WHO) has information about a substance that is not yet under international control but

that it believes may require control, it shall so notify the Secretary-General of the United Nations and provide the Secretary-General with information in support of its opinion.

The Controlled Substances Act (Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970) requires that when WHO notifies the United States under Article 2 of the Convention on Psychotropic Substances of information that may justify adding a drug or other substance to one of the schedules of the Convention, transferring a drug of substance from one schedule to another, or deleting it from the schedules, the Secretary of State must transmit the notice to the Secretary of the Department of Health and Human Services (HHS). The Secretary of HHS shall then publish the notice in the Federal Register and provide opportunity to interested persons to submit comments to assist HHS in preparing scientific and medical evaluations about the drug or substance.

The Secretary of HHS received the following notice from WHO on behalf of the Secretary-General:

The Secretary-General of the United Nations presents his compliments to the Secretary of State of the United States of America and has the honor to state that he has been asked to assist the Director-General of the World Health Organization in determining whether any change would be justified in the present status or scheduling of the following nine substances under the control of 1971 Convention on Psychotropic Substances: *amfepramine* (which is presently listed in Schedule IV of the Convention), *benzphetamine, chlorphentermine, clortermine, fenfluramine, mazindol, phendimetrazine, phenmetrazine* (which is presently listed in Schedule II of the Convention) and *phentermine.*

The World Health Organization, in addition to the data already available to it, needs further information with regard to these substances. This information would also be most useful to the Commission on Narcotic Drugs and the Secretariat of the United Nations, in case any recommendation to change the present status of any of the substances were to be submitted for decision to the Commission.

The Secretary-General would therefore be most grateful if His Excellency's Government would indicate whether any of the above-mentioned substances have been seized from the illicit drug traffic during the past three years, and, if so, the amounts seized, the number of such seizures and, where this could be determined, the provenance of the drugs, as well as the importance and the frequency of the abuse of these drugs. Any additional information on clandestine laboratories where these drugs may have been manufactured and on precursors used in this process would also be valuable.

In view of the foregoing, the Secretary-General would appreciate it if the information requested in the third paragraph of this note could be sent to him, c/o the Director of the Division of Narcotic Drugs, Vienna International Centre, P.O. Box 500, 1400 Vienna, Austria, by 30 June 1980. Therefore, as required by section 201(d)(2)(A) of the Controlled Substances Act (21 U.S.C. 811(d)(2)(A)), FDA at the direction of the Assistant Secretary for Health invites interested persons to submit data or comments to be considered in preparing evaluations and recommendations to WHO respecting the potential international control of the named drugs. This control may limit, among other things, the manufacture and distribution (import/export) of, and impose recordkeeping requirements on, the following nine anorectic drugs: *amfepramine* (which is currently listed in Schedule IV of the Convention) (Note: amfepramine is known in the United States as diethylpropion), *benzphetamine, chlorphentermine, clortermine, fenfluramine, mazindol, phendimetrazine, phenmetrazine* (which is currently listed in Schedule II of the Convention) and *phentermine.* Other than the two drugs noted as currently listed, these drugs are not currently scheduled under the Convention.

Interested persons may, on or before August 18, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this action. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 15, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-21486 Filed 7-15-80; 12:30 pm]

BILLING CODE 4110-03-M

[Docket No. 80M-0254]

Telectronics Proprietary Ltd., Premarket Approval of Osteostim™ Implantable Bone Growth Stimulator, Model S12

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Osteostim™ Model S12 Implantable Bone Growth Stimulator Sponsored by Telectronics Proprietary Ltd., NSW, Australia. After reviewing the recommendation of the Orthopedic Device Section of the Surgical and Rehabilitation Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by August 18, 1980.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Henry Goldstein, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-8162.

SUPPLEMENTARY INFORMATION: The sponsor, Telectronics Proprietary Ltd., NSW, Australia, submitted an application for premarket approval of the Osteostim™ Implantable Bone Growth Stimulator, Model S12, to FDA on January 31, 1979. The application was reviewed by the Orthopedic Device Section of the Surgical and Rehabilitation Devices Panel, and FDA advisory committee, which recommended approval of the application. On January 25, 1980, FDA approved the application by a letter to the sponsor from the Director of the Bureau of Medical Devices. The device is approved only for use in treatment of nonunion of long-bone fractures.

A summary of the information on which FDA's approval is based is available upon request from the Hearing Clerk (HFA-305), address above.

Requests should be identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting

data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before August 18, 1980, file with the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document. Received petitions may be seen in the above-named office from 9 a.m. to 4 p.m., Monday through Friday.

Dated: July 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–21466 Filed 7–17–80; 8:45 am]

BILLING CODE 4110–03–M

Office of Human Development Services

Federal Allotments to States for Social Services Expenditures Pursuant to Title XX of the Social Security Act; Promulgation for Fiscal Years 1980 and 1981—Revised

The limitations for Social Services under section 2002(a)(2) of the Social Security Act for Fiscal Year 1980 were promulgated in Vol. 43, No. 247 of the Federal Register at page 59909 on December 28, 1978.

The limitations for Social Services under section 2002(a)(2) of the Social Security Act for Fiscal Year 1981 were promulgated in Vol. 44, No. 232 of the Federal Register at page 69032 on November 30, 1979.

Pub. L. 96–272 enacted June 17, 1980, among other things amended section 2002(a)(2) of the Social Security Act, as amended, as follows: (1) Increased the Fiscal Year 1980 Federal limitation for social services to $2.7 billion and (2) increased the Fiscal Year 1981 Federal limitation for social services to $2.9 billion. Up to $200 million of the Federal limitation for Fiscal Years 1980 and 1981 is available for child day care services reimbursable at 100 percent. These amendments require that the applicable promulgations be revised. Accordingly, the promulgations for Fiscal Years 1980 and 1981 cited above are rescinded and the promulgations, as amended are set forth below in their entirety.

Title XX of the Social Security Act, as amended pursuant to Section 2002(a)(2) of the Act (as amended by Pub. L. 96–272) which provides that the Federal allotment shall be determined and promulgated in accordance with said section.

For Fiscal Year 1980 the allotment limitations are based on the Bureau of the Census population statistics contained in its publication "Current Population Reports" (Series P–25, No. 727, July 1978) which was the most recent satisfactory data, available from the Department of Commerce at the time of the original promulgation, as to the population of each State and of all States. The allotment limitations for Fiscal Year 1981 are based on the Bureau of the Census population statistics contained in its publication "Current Population Reports" (Series P–25, No. 799, April 1979) which was the most recent satisfactory data, available from the Department of Commerce at the time of the original promulgation as to the population of each State and of all States.

It is hereby promulgated, for purposes of grants to States for Social Services under title XX, that the Federal allotments to each of the 50 States and the District of Columbia for the Fiscal Years ending September 30, 1980, and September 30, 1981, respectively as determined pursuant to the Act and on the basis of said population data shall be as set forth below:

ALLOTMENT LIMITATION FISCAL YEAR 1980—Federal Allotment

State	Social services	Child day care	Total
Alabama	$42,642,000	$3,411,360	$46,053,360
Alaska	4,703,000	376,240	5,079,240
Arizona	26,533,000	2,122,640	28,655,640
Arkansas	24,776,000	1,982,080	26,758,080
California	253,037,000	20,242,960	273,279,960
Colorado	30,266,000	2,421,280	32,687,280
Connecticut	35,917,000	2,873,360	38,790,360
Delaware	6,725,000	538,000	7,263,000
Dist. of Col.	7,974,000	637,920	8,611,920
Florida	97,674,000	7,813,920	105,487,920
Georgia	58,336,000	4,666,880	63,002,880
Hawaii	10,343,000	827,440	11,170,440
Idaho	9,903,000	792,240	10,695,240
Illinois	129,951,000	10,396,080	140,347,080
Indiana	61,595,000	4,927,600	66,522,600
Iowa	33,270,000	2,661,600	35,931,600
Kansas	26,880,000	2,150,400	29,030,400
Kentucky	39,962,000	3,196,960	43,158,960
Louisiana	45,312,000	3,624,960	48,936,960
Maine	12,538,000	1,003,040	13,541,040
Maryland	47,831,000	3,826,480	51,657,480
Massachusetts	66,818,000	5,345,440	72,163,440
Michigan	105,497,000	8,439,760	113,936,760
Minnesota	45,936,000	3,674,880	49,610,880
Mississippi	27,608,000	2,208,640	29,816,640
Missouri	55,482,000	4,438,560	59,920,560
Montana	8,794,000	703,520	9,497,520
Nebraska	18,039,000	1,443,120	19,482,120
Nevada	7,315,000	585,200	7,900,200
New Hampshire	9,811,000	784,880	10,595,880
New Jersey	84,696,000	6,775,680	91,471,680
New Mexico	13,752,000	1,100,160	14,852,160
New York	207,135,000	16,570,800	223,705,800
North Carolina	63,848,000	5,107,840	68,955,840
North Dakota	7,546,000	603,680	8,149,680
Ohio	123,664,000	9,893,120	133,557,120
Oklahoma	32,485,000	2,598,800	35,083,800
Oregon	27,458,000	2,196,640	29,654,640
Pennsylvania	136,191,000	10,895,280	147,086,280
Rhode Island	10,805,000	864,400	11,669,400
South Carolina	33,236,000	2,658,880	35,894,880
South Dakota	7,962,000	636,960	8,598,960
Tennessee	49,680,000	3,974,400	53,654,400
Texas	148,267,000	11,861,360	160,128,360
Utah	14,653,000	1,172,240	15,825,240
Vermont	5,581,000	446,480	6,027,480
Virginia	59,341,000	4,747,280	64,088,280
Washington	42,273,000	3,381,840	45,654,840
West Virginia	21,483,000	1,718,640	23,201,640
Wisconsin	53,784,000	4,302,720	58,086,720
Wyoming	4,692,000	375,360	5,067,360
Total	2,500,000,000	200,000,000	2,700,000,000

ALLOTMENT LIMITATION FISCAL YEAR 1981—Federal Allotment

State	Social services	Child day care	Total
Alabama	$46,332,057	$3,432,004	$49,764,061
Alaska	4,989,797	369,614	5,359,411
Arizona	29,146,356	2,158,989	31,305,345
Arkansas	27,066,241	2,004,907	29,071,148
California	276,036,044	20,447,115	296,483,159
Colorado	33,058,950	2,448,811	35,507,761
Connecticut	38,370,669	2,842,272	41,212,941
Delaware	7,218,490	534,703	7,753,193
Dist. of Col.	8,345,218	618,164	8,963,382
Florida	106,407,722	7,882,054	114,289,776
Georgia	62,948,204	4,662,829	67,611,033
Hawaii	11,106,321	822,691	11,929,012
Idaho	10,871,071	805,264	11,676,335
Illinois	139,206,659	10,311,604	149,518,263
Indiana	66,538,876	4,928,806	71,467,682
Iowa	35,857,199	2,656,088	38,513,287
Kansas	29,072,066	2,153,486	31,225,552
Kentucky	43,310,939	3,208,218	46,519,157
Louisiana	49,105,542	3,637,447	52,742,989
Maine	13,508,358	1,000,619	14,508,977
Maryland	51,297,090	3,799,785	55,096,875
Massachusetts	71,491,528	5,295,668	76,787,196
Michigan	113,774,792	8,427,762	122,202,554
Minnesota	49,625,570	3,675,969	53,301,539
Mississippi	29,765,437	2,204,847	31,970,284
Missouri	60,174,719	4,457,386	64,632,105
Montana	9,719,579	719,969	10,439,548
Nebraska	19,377,250	1,435,352	20,812,602
Nevada	8,171,875	605,324	8,777,199
New Hampshire	10,784,400	798,844	11,583,244
New Jersey	90,720,198	6,720,015	97,440,213
New Mexico	15,006,535	1,111,595	16,118,130
New York	219,749,157	16,277,716	236,026,873
North Carolina	69,052,346	5,114,989	74,167,335
North Dakota	8,072,822	597,987	8,670,809
Ohio	133,090,134	9,858,528	142,948,662
Oklahoma	35,659,093	2,641,414	38,300,507
Oregon	30,260,701	2,241,535	32,502,236
Pennsylvania	145,484,145	10,776,603	156,260,748
Rhode Island	11,576,823	857,543	12,434,366
South Carolina	36,129,595	2,676,266	38,805,861
South Dakota	8,543,324	632,839	9,176,163
Tennessee	53,946,759	3,996,056	57,942,815
Texas	161,134,524	11,935,891	173,070,415
Utah	16,182,790	1,198,725	17,381,515
Vermont	6,029,853	446,656	6,476,509
Virginia	63,740,628	4,721,528	68,462,156
Washington	46,728,269	3,461,353	50,189,622
West Virginia	23,029,831	1,705,913	24,735,744
Wisconsin	57,933,644	4,291,381	62,225,025
Wyoming	5,249,810	388,876	5,638,686
Total	2,700,000,000	200,000,000	2,900,000,000

Dated: July 14, 1980.

Michio Suzuki,

Acting Director, Office of Program Coordination and Review.

Approved by: July 14, 1980.

Manuel Carballo,

Acting Assistant Secretary for Human Development Services.

[FR Doc. 80-21487 Filed 7-17-80; 8:45 am]

BILLING CODE 4110-92-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. D-80-603]

Houston, Sacramento, Phoenix, and Des Moines Multifamily Service Offices; Redelegation of Authority

Section A. Redelegation of Authority

Each Supervisor and Deputy Supervisor of the Houston, Sacramento, Phoenix and Des Moines Multifamily Service Offices is hereby authorized to exercise the power and authority of the Secretary of Housing and Urban Development with respect to the approval of all Assisted Housing Projects, proposals and/or applications for the Section 8, Low-Income Public Housing (Except Indian Housing), and Public Housing Modernization programs under the United States Housing Act of 1937 (42 U.S.C. 1401 et seq.), as amended, for Housing for the Elderly and Handicapped under Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and for all Insured Housing Programs under the National Housing Act of 1934 (12 U.S.C. 1701 et seq.) as amended.

For purpose of this redelegation, the approval authority shall include the approval of Low-Income Public Housing and Section 10(c) and Section 23 Leased Housing Operating Budgets requiring operating subsidy or lease adjustments to Basic Annual Contributions.

Section B. Exercise of Delegated Authority

Redelegations of authority made under Section A shall not be construed to modify or otherwise affect the administrative and supervisory powers of the Regional Administrators, Area Managers, or any of them, to whom a delegate is responsible.

Section C. Supersedure

This redelegation of authority supersedes the redelegation of authority published at 41 FR 16353, March 13, 1980.

Effective date. This redelegation of authority is effective as of May 16, 1980. (Secretary's delegation of authority published at 36 FR 5005, March 16, 1971.)

Issued at Washington, D.C., June 20, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc 80-21471 Filed 7-17-80; 8:45 am]

BILLING CODE 4210-01-M

Office of Environmental Quality

[Docket No. NI-22]

Intended Environmental Impact Statements

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for each of the following projects under HUD programs as described in the appendices of the Notice: The Meadows, Thurston County, Washington; Sierra Vista Subdivision, Sierra Vista, Arizona; and Gilbert Lindsay Village Green, Los Angeles, California. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning a particular project to the specific person or address indicated in the appropriate part of the appendices.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D.C., July 14, 1980.

Francis G. Haas,

Deputy Director, Office of Environmental Quality.

Appendix

EIS on the Meadows, Thurston County, Wash.

The HUD Area Office in Seattle, Washington intends to prepare an EIS on the project described below and solicits information and comments for consideration in the EIS. The EIS will be a joint statement with Thurston County to satisfy both Federal and State environmental requirements.

Description: The Meadows is located East of Lacey, Washington between Olympia Steilacoom Road and Old Pacific Highway 510, and approximately one mile East of Marvin Road in Thurston County, Washington. The development covers 247 acres and proposes 748 dwelling units (single, duplex, and fourplex units), commercial area, school site and open space/recreational area. The development will be constructed in phases over the next ten years. The project sponsor is John W. Hodges of Olympia, Washington.

Need: An EIS is proposed due to HUD threshold requirements in accordance with housing program environmental regulations and probable impact on: water resources, energy, transportation systems and community services. Also the use of an individual sewage disposal system is proposed for the development.

Alternatives Perceived: The alternatives identified include no action, increased or decreased residential density, or increased commercial usage.

Comments: Comments regarding this proposal should be sent on or before August 8, 1980, to: Richard L. Moore M/S 421, HUD, Seattle Area Office, 1321 2nd Avenue, Seattle, WA 98101. Phone: (206) 442-7229.

Appendix

EIS on Sierra Vista Subdivision, Sierra Vista, Cochise County, Ariz.

The Los Angeles Area Office of the U.S. Department of Housing and Urban Development intends to issue an Environmental Impact Statement (EIS) for a primarily residential land development project identified as Sierra Vista Subdivision. The purpose of this notice is to solicit from all interested persons, local, State and Federal agencies, recommendations or comments regarding any issue that should be addressed in the proposed environmental impact statement.

Description: The Sierra Vista planned residential community project is a proposed land development of approximately 6,000 acres located in and adjacent to the City of Sierra Vista in Cochise County, Arizona. This planned development project will provide for an approximate 10,000 new dwelling units in a mixture of housing densities and types. Community recreation facilities, functional open space and certain supporting commercial uses will form the remaining land uses within the project. The project boundaries are as follows: Fort

Huachuca Military Reservation to the west, Snyder Boulevard and Foothills Drive to the north, parts of Sections 9, 17 and 19 of Township 22 south, Range 22 east of the Gila and Salt River Meridian to the east and Choctaw Drive to the south. HUD's participation in this land development project is through its Federal mortgage insurance program which is intended to facilitate homeownership and the construction and financing of housing; by insuring commercial lenders to invest capital in the home mortgage market.

Need: This office has determined that an environmental impact statement is necessary due to the size and scope of project activities proposed. This determination is made in response to Section 102(2)(c) of Pub. L. 91–190, the National Environmental Policy Act of 1969.

Possible Significant Environmental Effects: Conversion of approximately 6,000 acres of desert land to urban and suburban uses. Introduction of approximately 25,000 new residents in approximately 10,000 new dwelling units adjacent to Sierra Vista City (population 25,000) and Fort Huachuca Military Reservation over an estimated seven year period.

Potential impact on a portion of a 100-year floodplain area. Impact on natural desert vegetation and perhaps certain State protected vegetation. Impact on the local road system (due to added vehicles), natural drainage conditions, and local community facilities and services. Potential impacts on archeological and cultural resources. Air-quality impacts may have significance to the Fort Hauchuca Military Base communications mission as this area has the "freest electromagnetic atmosphere" in the continental United States.

Alternatives Perceived. At this time the HUD alternatives include: no project, accept project as proposed, accept project with conditions, or modification of project.

Scoping Meeting: HUD does not anticipate holding a pre-project "scoping" meeting in accord with § 1501.7 of the regulations for implementing the National Environmental Policy Act unless informed of environmental impacts that are unduly significant to local concerns and may be perceived as controversial. This decision is made with an awareness that the project will bring about a significant change in population numbers.

However, such change will be timed according to local market demand and should not place an unusually intense and swift burden on local service resources.

Comments: Comments or recommendations regarding this EIS proposal should be sent on or before August 8, 1980, to William Shortall, Environmental Protection Specialist, Department of Housing and Urban Development, Room 604, Los Angeles Area Office, 2500 Wilshire Boulevard, Los Angeles, California 90057, or call (213) 688–5899 (FTS 8–798–5899).

Appendix

EIS on Gilbert Lindsay Village Green, Los Angeles, Calif.

The City of Los Angeles, California intends to prepare an EIS on the project described below and solicits information and comments for consideration in the EIS.

Description: The purpose of this project is the construction of a 996-unit housing development and commercial center to be built at the now vacated Goodyear Tire Plant which is located on a 74 acre site at Florence and Central Avenues in South Central Los Angeles. The development will be built by the Watts Labor Community Action Committee in partnership with Watt Industries Inc. and Chastain Construction Inc. and will consist of 400 townhouse condominiums, 296 family garden apartment units, 300 senior citizen apartment units, a small commercial shopping area, and a neighborhood park. The development is planned for the next four years and will be constructed in stages. Total cost of the project including all sources of funding will be approximately $75,000,000. In addition to private investment, the project will utilize various forms of HUD-assisted housing, Housing and Community Development Block Grant funds, Department of Transportation funds, and other Grant sources to be identified.

Need: It has been determined that due to the size and scope of this project it is an action that may significantly affect the quality of the human environment, and a Draft Environmental Impact Statement will be prepared by the City of Los Angeles in accordance with the National Environmental Policy Act of 1969 (Pub. L. 91–190) on such project. Probable environmental issues and impacts that have thus far been identified include impacts on the surrounding infrastructure and public services (including schools, police and fire protection, sanitation, utilities, and commercial interests), traffic, noise, and air quality. Also of concern is incompatible land use in the area and hazards due to chemical and industrial storage in an adjoining industrial area.

Alternatives Perceived: The alternatives perceived available to the City of Los Angeles which will be given consideration are: (1) Accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

Scoping Meeting: This notice is part of the process used for scoping the Environmental Impact Statement. Responses will help determine significant environmental issues and identify data which the EIS should address. It will further help to identify cooperating agencies.

A scoping meeting has been planned for 7:30 p.m., Tuesday, July 29, 1980 and will be held at the Auditorium of Fremont High School, 7676 South San Pedro Street, Los Angeles, California. All interested parties, groups and persons are invited to attend the scoping meeting.

All comments and information respecting this project should be submitted to the Community Development Department, Environmental Unit, 215 West Sixth Street, Room 300, Los Angeles, California 90014; (213) 485–2956. Written comments should be received at the above address on or before July 28, 1980 and all comments so received will be considered prior to the preparation of an Environmental Impact Statement.

[FR Doc. 80–21473 Filed 7–17–80; 8:45 am]
BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Shell Coal Lease, Crow Indian Reservation, Montana: Intent To Prepare and Consider an Environmental Statement and Notice of Scoping Meetings

The Department of the Interior, Bureau of Indian Affairs, Billings Area Office, the lead Federal Agency, will be preparing an environmental impact statement on a proposal to lease and mine coal on the Crow Indian Reservation, Montana. The mining and facilities area are proposed to be located in the extreme southeast portion of the Reservation and adjacent to the northern border of the State of Wyoming. The Crow Tribe and Shell Oil Company have been involved in the development of an agreement which was jointly approved by both parties on May 8, 1980.

The proposed project, if initiated, will require approval of a mining lease, mining and reclamation plan, and several governmental permits.

Information obtained from the EIS will assist the BIA, the Crow Tribe and other agencies in making decisions concerning the proposal.

The Shell Project, as generally proposed, contemplates the strip-mining of approximately 2,560 acres of land, referred to as the Youngs Creek Area Lease, for the removal of approximately 210,000,000 tons of coal over a 30 year period. The agreement entered into between the Crow Tribe of Indians and Shell Oil Company also gives Shell Oil Company the option to enter into lease on two other areas known as the Upper Tanner and Lower Tanner Lease Areas. Both of these leases are comprised of 2,560 acres each. The award of each option on the Lower and Upper Tanner Creek Areas are, in part, contingent upon Shell obtaining, by specified time periods, sales contracts for the sale of coal for which the total obligated tonnage equals or exceeds 90 percent of the total economically recoverable reserves of the areas that Shell holds under lease at that time. The economically recoverable coal shall be reduced by any coal which cannot be mined by reason of Federal, State or Tribal laws or regulations, or because the Crow Tribe and/or Shell cannot acquire surface rights. The Crow Tribe may also elect to enter into a Joint Venture Agreement on the Upper and Lower Tanner Creek Areas as an alternative to leasing.

In order to provide electrical power to the coal handling facilities, draglines, overburden drills, pumps, etc., a transmission line would need to be constructed. The transmission line will be approximately 10 miles in length and will reach the project area from a Pacific Power and Light Company line north of Sheridan, Wyoming.

A railroad spur will be required to transport coal and will run from Burlington Northern's Decker Mine Spur to the Youngs Creek mine facilities, a distance of about 18 miles.

A water well is proposed to supply potable washing and housekeeping water. Plant water would be supplied from mine effluent. A maximum of 111,000 gpd of plant water would be required for spraying of haul roads and for the washing and steaming of equipment.

The project contemplates a work force of approximately 400 during the peak construction period (expected to last 2 years) and a work force averaging 300 during periods of normal mining thereafter. Preference for all types of employment at the mine will be given to Indians living on or near the Reservation, with the long-term objective being to maximize the ratio of Crow Indians in all employment classifications.

Alternatives to be addressed in the environmental statement include:

(1) Approval of the lease

(2) Rejection of the lease

(3) Approval of the lease with modifications

Pursuant to the Council on Environmental Quality National Environmental Policy Act regulations, including 40 CFR 1501.7, 1506.6 and 1508.22, public meetings will be held for the purpose of obtaining comment on the proposed scope and significant issues to be analyzed in depth in the environmental impact statement. The meetings will be held at Pryor, Montana, at 7:00 p.m., August 26, 1980; Crow Agency, Montana, at 7:00 p.m., August 27, 1980; and at Lodge Grass, Montana, at 7:00 p.m., August 28, 1980. All Federal, State and local agencies, any affected Indian tribe, the proponents of the action, and other interested persons (including those who may not be in accord with the action on environmental grounds), are invited to attend the meetings and participate in the scoping process.

The draft EIS will be prepared by late fall, 1980 and will be available for public and agency review following publication.

For further information concerning the meetings, the proposed action, or the EIS contact: David Pennington, Natural Resource Specialist, Bureau of Indian Affairs, Billings Area Office, 316 North 26th Street, Billings, Montana 59101.

Theodore C. Krenzke,

Acting Deputy Commissioner of Indian Affairs.

[FR Doc. 80-21637 Filed 7-17-80; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[Serial No. F-14950-A]

Alaska Native Claims Selection

This decision rejects improperly filed Sec. 14(h)(1) selections and approves lands in the area of Tuntutuliak for conveyance to Tuntutuliak Land Limited.

I. Section 14(h)(1) Applications Rejected in Entirety

Calista Corporation filed selection applications pursuant to Sec. 14(h)(1) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(h) (1976)) (ANCSA). Section 14(h) and Departmental regulations issued thereunder authorize the Secretary of the Interior to withdraw and convey only unreserved and unappropriated public lands. Since all available lands encompassed in the subject Sec. 14(h)(1) applications had been properly withdrawn under Sec. 11 and selected by Tuntutuliak Land Limited under Sec. 12 of ANCSA, these lands were not unreserved or unappropriated at the time of selection by Calista Corporation. Therefore, the following applications must be and are hereby rejected in their entirety:

Seward Meridian, Alaska (Unsurveyed)

Date of applicabon	Serial No.	Land description
04/28/76	AA-11212	T. 2 N., R. 77 W. Sec. 17 (fractional), NW¼SW¼NW¼; Sec. 18 (fractional), NE¼SE¼NE¼. Containing approximately 18 acres.
10/16/75	AA-9961	T. 4 N., R. 77 W. Sec. 5, NW¼SE¼SW¼SE¼. Containing approximately 2.5 acres.
10/16/75	AA-9962	Sec. 5, E½SW¼NE¼. Containing approximately 20 acres.
04/28/76	AA-11210	Sec. 7 (fractional), E½NE¼NE¼. Containing approximately 18 acres.
04/28/76	AA-11302	T. 2 N., R. 78 W. Sec. 6 (fractional), N½SE¼SE¼. Containing approximately 19 acres.
10/16/75	AA-9970	T. 3 N., R. 78 W. Sec. 13, E½NE¼SW¼. Containing approximately 20 acres.
10/16/75	AA-9972	Sec. 5, SE¼SE¼SW¼, SW¼SW¼SE¼. Containing approximately 20 acres.
04/28/76	AA-11297	Sec. 9 (fractional), N½SE¼NW¼. Containing approximately 17 acres.
04/28/76	AA-11298	Sec. 15 (fractional), W½NW¼NE¼. Containing approximately 16 acres.
04/28/76	AA-11299	Sec. 23 (fractional), SE¼NE¼NW¼, SW¼NW¼NE¼. Containing approximately 10 acres.
10/16/75	AA-9973	T. 4 N., R. 78 W. Sec. 33, S½NW¼NW¼. Containing approximately 20 acres.
10/16/75	AA-9974	Sec. 26 (fractional), NW¼NW¼NW¼; Sec. 27 (fractional), NE¼NE¼NE¼. Containing approximately 12 acres.
04/28/76	AA-11209	Sec. 1 (fractional), W½NE¼SE¼. Containing approximately 19 acres.
04/28/76	AA-11294	Sec. 28 (fractional), S½NW¼NW¼. Containing approximately 17 acres.
04/28/76	AA-11295	Sec. 28 (fractional), W½NW¼SW¼SE¼, E½NE¼SE¼SW¼. Containing approximately 8 acres.
04/28/76	AA-11296	Sec. 32 (fractional), SE¼SE¼SE¼; Sec. 33, SW¼SW¼SW¼. Containing approximately 18 acres.

Seward Meridian, Alaska (Unsurveyed)—Continued

Date of application	Serial No.	Land description
06/02/76..	AA-11385 ...	Sec. 23 (fractional), W½SW¼NE¼SW¼. Containing approximately 4 acres.
04/28/76..	AA-11300 ...	T. 2 N., R. 79 W. Sec. 8 (fractional), N½NE¼NW¼. Containing approximately 17 acres.
04/28/76..	AA-11301 ...	Sec. 12 (fractional), E½NW¼NW¼. Containing approximately 18 acres.

When this decision becomes final, these applications will be closed of record.

II. Lands Proper for Village Selection, Approved for Interim Conveyance

On November 19, 1974, Tuntutuliak Land Limited, for the Native village of Tuntutuliak filed selection application F–14950–A under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611, (1976)), for the surface estate of certain lands in the vicinity of Tuntutuliak.

Tuntutuliak Land Limited, in its November 19, 1974 application, excluded several bodies of water. Because certain of those water bodies have been determined to be nonnavigable, they are considered to be public lands withdrawn under Sec. 11(a)(1) and available for selection by the village pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. Section 12(a) and 43 CFR 2651.4(b) and (c) provide that a village corporation must, to the extent necessary to obtain its entitlement, select all available lands within the township or townships within which the village is located, and that additional lands selected shall be compact and in whole sections. The regulations also provide that the area selected will not be considered to be reasonably compact if it excludes other lands available for selection within its exterior boundaries. For these reasons, the water bodies which were improperly excluded in the November 19, 1974, application are considered selected by Tuntutuliak Land Limited.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 96,804 acres, is considered proper for acquisition by Tuntutuliak Land Limited, and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Seward Meridian, Alaska (Unsurveyed)

T. 2 N., R. 77 W.,
- Sec. 2, excluding unnamed slough between Tagayarak River and Kinak River;
- Sec. 5, excluding Jewn River;
- Sec. 6, all, excluding Jewn River;
- Sec. 7, excluding Tagayarak River;
- Sec. 8, excluding Native Allotment F–18059 Parcel A and Jewn River;
- Sec. 11, excluding unnamed slough between Tagayarak River and Jewn River;
- Sec. 14, excluding unnamed slough between Tagayarak River and Kinak River;
- Sec. 17, Excluding Tagayarak River and Jewn River;
- Sec. 18, excluding Tagayarak River.

Containing approximately 4,667 acres.

T. 3 N., R. 77 W.,
- Sec. 1, all;
- Sec. 2, excluding Native allotment F–17656 Parcel D;
- Secs. 3 and 4; all;
- Sec. 5, excluding unnamed navigable lake system and its interconnecting slough;
- Sec. 6, excluding unnamed navigable lake system and its interconnecting slough;
- Sec. 7, excluding Native allotment F–17691 Parcel C and unnamed navigable lake system;
- Sec. 8, excluding unnamed navigable lake system;
- Secs. 9 to 11, inclusive, all;
- Sec. 12, excluding Native allotment F–17043 Parcel B;
- Sec. 13, excluding Native allotment F–17043 Parcel B, unnamed slough and Kinak River;
- Sec. 14, excluding Kinak River and unnamed slough;
- Sec. 15, excluding Kinak River;
- Sec. 16, excluding Townsite Petition F–033188 and Kinak River;
- Sec. 17, excluding Native allotments F–17043, Parcel C, F–17045 Parcel A and unnamed navigable lake system;
- Sec. 18, excluding Native allotment F–17043, Parcel C and unnamed navigable lake system;
- Sec. 19, excluding Kinak River;
- Sec. 20, excluding Native allotment F–16598 and Kinak River;
- Sec. 21, excluding Townsite Petition F–033188, U.S. Survey 4410, ANCSA Sec. 3(e) application AA–31246, PLO 2020 and Kinak River;
- Secs. 22 to 25, inclusive, excluding Kinak River
- Sec. 26, excluding Kinak River and unnamed sloughs between Tagayarak River and Kinak River;
- Secs. 27 to 34, inclusive, all;
- Sec. 35, excluding Kinak River and unnamed sloughs between Tagayarak River and Kinak River;
- Sec. 36, excluding Kinak River.

Containing approximately 19,625 acres.

T. 4 N., R. 77 W.
- Sec. 4, excluding unnamed navigable lake system;
- Sec. 5, excluding Native allotments F–17045, Parcel B, F–16903 and F–17692 Parcel D;
- Sec. 6, excluding interconnecting sloughs of the navigable lake system;
- Sec. 7, excluding interconnecting slough of the navigable lake system;
- Sec. 8, excluding Native allotment F–17044, Parcel A, unnamed navigable lake system and its interconnecting slough;
- Secs. 9 and 10, excluding unnamed navigable lake system;
- Sec. 15, excluding unnamed navigable lake system;
- Sec. 16, excluding Native allotment F–17652, Parcel A and unnamed navigable lake system;
- Sec. 17, excluding unnamed navigable lake system;
- Sec. 18, excluding Native allotment F–17854, Parcel C and unnamed navigable lake system;
- Sec. 19, excluding Native allotments F–17854, Parcel C, F–17652 Parcel B and unnamed navigable lake system;
- Secs. 20 and 21, excluding unnamed navigable lake system;
- Sec. 28, all;
- Sec. 29, excluding Native allotment F–17655, Parcel C;
- Sec. 30, excluding Native allotments F–17655, Parcel C, F–17690 Parcel A and unnamed navigable lake system;
- Sec. 31, excluding unnamed navigable lake system;
- Secs. 32 and 33, all.

Containing approximately 9,712 acres.

T. 5 N., R. 77 W.,
- Sec. 4, all;
- Sec. 5, excluding unnamed navigable lake system and its interconnecting slough;
- Secs. 6 and 7, excluding unnamed navigable lake system;
- Secs. 8 and 9, excluding unnamed navigable lake system and its interconnecting slough;
- Sec. 16, excluding Native allotments F–18888, F–14055 and unnamed navigable lake system;
- Sec. 17, excluding Native allotment F–14055;
- Sec. 18, excluding unnamed navigable lake system.

Containing approximately 4,447 acres.

T. 2 N., R. 78 W.,
- Sec. 1, all;
- Sec. 2, excluding Tagayarak River;
- Sec. 3, excluding Native allotment F–18059, Parcel C and Tagayarak River;
- Secs. 4 to 7, inclusive, excluding Tagayarak River.

Containing approximately 4,168 acres.

T. 3 N., R. 78 W.,
- Secs. 1, 2 and 3, all;
- Sec. 4, excluding Native allotment F–16749 Parcel B;
- Sec. 5, excluding Native allotments F–16749 Parcel B, F–16749 Parcel A, F–17693 Parcel B, F–18057 Parcel A, and Kinak River;
- Sec. 6, all;
- Sec. 8, excluding Native allotments F–16748, Parcel B, F–16749 Parcel A, F–17699 Parcel A, F–20494 Parcel A, and Kinak River;

Sec. 9, excluding Native allotments F-16748, Parcel B, F-17694, F-17854 Parcel B, F-20494 Parcel A, and Kinak River;
Sec. 10, excluding Native allotments F-17693, Parcel A and F-17657 Parcel A;
Sec. 11, all;
Sec. 12, excluding Native allotment F-17691, Parcel C;
Sec. 13, excluding Native allotment F-17701, Parcel A, and Kinak River;
Sec. 14, excluding Native allotments F-16751, F-17701 Parcel A and F-18058 Parcel A;
Sec. 15, excluding Native allotments F-16748, Parcel A, F-16751, F-17654, F-17655 Parcel D, F-18058 Parcel A, F-17657 Parcel A, and Kinak River;
Sec. 16, excluding Native allotments F-16804, F-17694, F-20494 Parcel A, and Kinak River;
Sec. 22, excluding Native allotment F-16748 Parcel A, and Kinak River;
Secs. 23 and 24, excluding Kinak River;
Secs. 25 and 26, all;
Secs. 31 and 32, all;
Sec. 33, excluding Tagayarak River;
Secs. 34, 35 and 36, all.
Containing approximately 15,100 acres.

T. 4 N., R. 78 W.,
Sec. 1, excluding Native allotment F-17657, Parcel D and interconnecting slough of the navigable lake system;
Sec. 2, excluding Native allotments F-18883, Parcel B and F-17690 Parcel B;
Sec. 3, excluding Native allotments F-18883, Parcel B and F-17690 Parcel B, and unnamed navigable lake system;
Sec. 6, excluding unnamed navigable lake system;
Sec. 7, excluding Native allotment F-17703, Parcel B, unnamed navigable lake system and its interconnecting slough;
Sec. 8, excluding Native allotment F-16747 Parcel A, unnamed navigable lake system and its interconnecting slough;
Sec. 9, excluding unnamed navigable lake system;
Sec. 10, excluding unnamed navigable lake system;
Sec. 11, excluding Native allotment F-16752 Parcel B and unnamed navigable lake system;
Sec. 12, excluding Native allotment F-16752, Parcel B, unnamed navigable lake system and its interconnecting slough;
Secs. 13 to 16, inclusive, excluding unnamed navigable lake system;
Sec. 17, all;
Sec. 18, excluding unnamed navigable lake system and its interconnecting slough;
Sec. 19, all;
Sec. 20, excluding Native allotment F-17702, Parcel A;
Sec. 21, excluding Native allotments F-16749, Parcel B, F-18901 and unnamed navigable lake system;
Sec. 22, excluding Native allotments F-18875, Parcel A, F-16750 Parcel A, and unnamed navigable lake system;
Sec. 23, excluding Native allotment F-17656, Parcel A and unnamed navigable lake system;
Sec. 24, excluding Native allotment F-17656, Parcel A and unnamed navigable lake system;
Sec. 25, excluding Native allotments F-16747, Parcel B, F-17656 Parcel A and F-17690, Parcel A, unnamed navigable lake system and its interconnecting slough;
Sec. 26, excluding Native allotments F-17656, Parcel A, F-17693 Parcel C, F-18889, unnamed navigable lake system and its interconnecting slough;
Sec. 27, excluding Native allotment F-17657, Parcel B, Kinak River and unnamed navigable lake system;
Sec. 28, excluding Native allotments F-17703, Parcel C, F-17657 Parcel B, and Kinak River;
Sec. 29, excluding Native allotment F-16750, Parcel C;
Sec. 30, excluding Native allotment F-16750, Parcel C;
Sec. 31, all;
Sec. 32, excluding Kinak River;
Sec. 33, excluding Native allotments F-17690, Parcel C, F-18883 Parcel A and Kinak River;
Sec. 34, excluding Kinak River;
Sec. 35, excluding Native allotment F-18889, unnamed navigable lake system and its interconnecting slough.
Sec. 36, excluding Native allotment F-16747, Parcel B and unnamed navigable lake system.
Containing approximately 15,796 acres.

T. 5 N., R. 78 W.
Secs. 1, 2 and 3, all;
Secs. 10, 11 and 12, all;
Secs. 13 and 14, excluding unnamed navigable lake system;
Sec. 15, all;
Sec. 22, excluding interconnecting slough of the navigable lake system;
Sec. 23, excluding unnamed navigable lake system and its interconnecting slough;
Secs. 24 to 27, excluding unnamed navigable lake system;
Secs. 34 and 35, excluding Native allotment F-18874 Parcel A and unnamed navigable lake system;
Sec. 36, excluding unnamed navigable lake system and its interconnecting slough.
Containing approximately 10,070 acres.

T. 2 N., R. 79 W.
Sec. 4, all;
Sec. 5, excluding Native allotment F-17692 Parcel A;
Secs. 6 to 9, inclusive, excluding Tagayarak River;
Sec. 10, excluding Native allotment F-14410 Parcel A and Tagayark River;
Secs. 11 and 12, excluding Tagayarak River;
Sec. 16, excluding Tagayarak River;
Sec. 17, excluding Native allotment F-17692 Parcel B;
Secs. 18 and 19, all;
Sec. 20, excluding Native allotment F-1790 Parcel D;
Sec. 21, all;
Sec. 28, all;
Sec. 29, excluding Native alotment F-17690 Parcel D;
Secs. 30 to 33, inclusive, all.
Containing approximately 13,219 acres.
Aggregating approximately 96,804 acres

Calista Corporation filed regional in lieu selection application AA-8099-1 on December 17, 1975 for the subsurface estate pursuant to Sec. 12(a)(1) of ANCSA and 43 CFR 2652 as to lands in:

Seward Meridian, Alaska (Unsurveyed)

T. 3 N., R. 77 W.
Secs. 3 and 4, all;
Sec. 5, excluding unnamed navigable lake system and its interconnecting slough;
Sec. 6, excluding unnamed navigable lake system and its interconnecting slough;
Sec. 7, excluding Native allotment F-17691 Parcel C and unnamed navigable lake system;
Sec. 8, excluding unnamed navigable lake system;
Secs. 9 and 10, all.
Containing approximately 4,732 acres.

T. 4 N., R. 77 W.
Sec. 4, excluding unnamed navigable lake system;
Sec. 5, excluding Native allotments F-17045 Parcel B, F-18903 and F-17692 Parcel D;
Sec. 6, excluding interconnecting sloughs of the navigable lake system;
Sec. 7, excluding interconnecting slough of the navigable lake system;
Sec. 8, excluding Native allotment F-17044 Parcel A, unnamed navigable lake system and its interconnecting slough;
Secs. 9 and 10, excluding unnamed navigable lake system;
Sec. 15, excluding unnamed navigable lake system;
Sec. 16, excluding Native allotment F-17652 Parcel A and unnamed navigable lake system;
Sec. 17, excluding unnamed navigable lake system;
Sec. 18, excluding Native allotment F-17854 Parcel C and unnamed navigable lake system;
Sec. 19, excluding Native allotments F-17854 Parcel C, F-17652 Parcel B and unnamed navigable lake system;
Secs. 20 and 21, excluding unnamed navigable lake system;
Sec. 28, all;
Sec. 29, excluding Native allotment F-17655 Parcel C;
Sec. 30, excluding Native allotments F-17655 Parcel C, F-17690 Parcel A and unnamed navigable lake system;
Sec. 31, excluding unnamed navigable lake system;
Secs. 32 and 33, all.
Containing approximately 9,712 acres.

T. 5 N., R. 77 W.
Sec. 4, all;
Sec. 5, excluding unnamed navigable lake system and its interconnecting slough;
Secs. 6 and 7, excluding unnamed navigable lake system;
Secs. 8 and 9, excluding unnamed navigable lake system and its interconnecting slough;
Sec. 16, excluding Native allotments F-18888, F-14055 and unnamed navigable lake system;
Sec. 17, excluding Native allotment F-14055;
Sec. 18, excluding unnamed navigable lake system.
Containing approximately 4,447 acres.

T. 3 N., R. 78 W.
Secs. 1, 2 and 3, all;
Sec. 4, excluding Native allotment F-16748 Parcel B;
Sec. 5, excluding Native allotments F-16748 Parcel B, F-16749 Parcel A, F-17693

Parcel B, F-18057 Parcel A, and Kinak River;
Sec. 6, all;
Sec. 8, excluding Native allotments F-16748 Parcel B, F-16749 Parcel A, F-17699 Parcel A, F-20494 Parcel A, and Kinak River;
Sec. 9, Excluding Native allotments F-16748 Parcel B, F-17694, F-17854 Parcel B, F-20494 Parcel A, and Kinak River;
Sec. 10, excluding Native allotments F-17693 Parcel A and F-17657 Parcel A;
Sec. 11, all;
Sec. 12, excluding Native allotment F-17691 Parcel C;
Sec. 16, excluding Native allotments F-16804, F-17694, F-20494 Parcel A, and Kinak River.
Containing approximately 6,821 acres.
T. 4 N., R. 78 W.
Sec. 1, excluding Native allotment F-17657 Parcel D and Interconnecting slough of the navigable lake system;
Sec. 2, excluding Native allotments F-18883 Parcel B and F-17690 Parcel B;
Sec. 3, Excluding Native allotments F-18883 Parcel B, F-17690 Parcel B and unnamed navigable lake system;
Sec. 6, excluding unnamed navigable lake system;
Sec. 7, excluding Native allotment F-17703 Parcel B, unnamed navigable lake system and its interconnecting slough;
Sec. 8, excluding Native allotment F-16747 Parcel A, unnamed navigable lake system and its interconnecting slough;
Sec. 9, excluding unnamed navigable lake system;
Sec. 10, excluding unnamed navigable lake system;
Sec. 11, excluding Native allotment F-16752 Parcel B and unnamed navigable lake system;
Sec. 12, excluding Native allotment F-16752 Parcel B, unnamed navigable lake system and its interconnecting slough;
Secs. 13 to 16, inclusive, excluding unnamed navigable lake system;
Sec. 17, all;
Sec. 18, excluding unnamed navigable lake system and its interconnecting slough;
Sec. 19, all;
Sec. 20, excluding Native allotment F-17702 Parcel A;
Sec. 21, excluding Native allotments F-16749 Parcel B, F-18901 and unnamed navigable lake system;
Sec. 22, excluding Native allotment F-18875 Parcel A, F-16750 Parcel A, and unnamed navigable lake system;
Sec. 23, excluding Native allotment F-17656 Parcel A and unnamed navigable lake system;
Sec. 24, excluding Native allotment F-17656 Parcel A and unnamed navigable lake system;
Sec. 25, excluding Native allotments F-16747 Parcel B, F-17656 Parcel A, F-17690 Parcel A, unnamed navigable lake system and its interconnecting slough;
Sec. 26, excluding Native allotments F-17656 Parcel A, F-17693 Parcel C, F-18889, unnamed navigable lake system and its interconnecting slough;
Sec. 27, excluding Native allotment F-17657 Parcel B, Kinak River and unnamed navigable lake system;
Sec. 28, excluding Native allotments F-17703 Parcel C, F-17657 Parcel B and Kinak River;
Sec. 29, excluding Native allotment F-16750 Parcel C;
Sec. 30, excluding Native allotment F-16750 Parcel C;
Sec. 31, all;
Sec. 32, excluding Kinak River;
Sec. 33, excluding Native allotments F-17690 Parcel C, F-18883 Parcel A and Kinak River;
Sec. 34, excluding Kinak River;
Sec. 35, excluding Native allotment F-18889, unnamed navigable lake system and its interconnecting slough;
Sec. 36, excluding Native allotment F-16747 Parcel B and unnamed navigable lake system.
Containing approximately 15,796 acres.
T. 5 N., R. 78 W.
Secs. 1, 2 and 3, all;
Secs. 10, 11 and 12, all;
Secs. 13 and 14, excluding unnamed navigable lake system;
Sec. 15, all;
Sec. 22, excluding interconnecting slough of the navigable lake system;
Sec. 23, excluding unnamed navigable lake system and its interconnecting slough;
Secs. 24 to 27, excluding unnamed navigable lake system;
Secs. 34 and 35, excluding Native allotment F-18874 Parcel A and unnamed navigable lake system;
Sec. 36, excluding unnamed navigable lake system and its interconnecting slough.
Containing approximately 10,070 acres.
T. 2 N., R. 79 W.
Sec. 4, all;
Sec. 5, excluding Native allotment F-17692 Parcel A;
Secs. 6 to 9, inclusive, excluding Tagayarak River;
Sec. 10, excluding Native allotment F-14410 Parcel A and Tagayarak River;
Secs. 11 and 12, excluding Tagayarak River;
Sec. 16, excluding Tagayarak River;
Sec. 17, excluding Native allotment F-17692 Parcel B;
Secs. 18 and 19, all;
Sec. 20, excluding Native allotment F-17690 Parcel D;
Sec. 21, all;
Sec. 28, all;
Sec. 29, excluding Native allotment F-17690 Parcel D;
Secs. 30 to 33, inclusive, all.
Containing approximately 13,219 acres.
Aggregating approximately 64,797 acres.

The above-described lands lie within those selected by Tuntutuliak Land Limited for the Village of Tuntutuliak. Calista Corporation will receive title to the subsurface estate at the time the village receives title to the surface estate. This acreage will not be charged against Calista Corporation's in-lieu entitlement.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States;

1. The subsurface estate therein, and all rights, privileges immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)).

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2) (ANCSA)), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Airport lease AA-9607 containing 59.80 acres, lying within Sec. 21, T. 3 N., R. 77 W., Seward Meridian, issued to the State of Alaska, Department of Public Works, Division of Aviation (now the Department of Transportation and Public Facilities), under the provisions of the act of May 24, 1928 (45 Stat. 728-729; 49 U.S.C. 211-214); and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

There are no easements to be reserved to the United States pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act.

Tuntutuliak Land Limited is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is 96,804 acres. The remaining entitlement of approximately 18,396 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be issued to Calista Corporation when the surface estate is conveyed to Tuntutuliak Land Limited, and shall be

subject to the same conditions as the surface conveyance.

Based on preliminary notes and sketches from Bureau of Land Management Cadastral Survey work done in the vicinity of the village, it is estimated that the following inland water bodies are influenced by the mean high tide:

Kuskokwim River and Its Interconnecting Sloughs

Kinak River, from its confluence with the Kuskokwim upstream to the north boundary of Sec. 5, T. 3 N., R. 78 W., Seward Meridian.

Tagayarak River, from its confluence with the Kuskokwim, upstream to the west boundary of Sec. 2, T. 2 N., R. 78 W., Seward Meridian.

Jewn River, from its confluence with the Tagayarak, upstream to the east boundary of Sec. 6, T. 2 N., R. 77 W., Seward Meridian.

Within the above described lands, only the following inland water bodies are considered to be navigable by reason of travel in trade or commerce:

The unnamed lake system in Secs. 3, 9, 10, 11, 14, 15 and 16, T. 5 N., R. 77 W., Seward Meridian.

The unnamed slough in the NE¼NE¼ of Sec. 9, T. 5 N., R. 77 W., Seward Meridian.

The unnamed lake in Secs. 4 and 9, T. 5 N., R. 77 W., Seward Meridian.

The unnamed slough and lake system in Secs. 4 and 5, T. 5 N., R. 77 W., Seward Meridian.

The unnamed lake in Secs. 5, 6 and 8, T. 5 N., R. 77 W., Seward Meridian and Secs. 31 and 32, T. 6 N., R. 77 W., Seward Meridian.

The unnamed slough and lake system in Secs. 6 and 7, T. 5 N., R. 77 W., Seward Meridian and Secs. 1 and 12, T. 5 N., R. 77 W., Seward Meridian.

The unnamed lake system in Secs. 7 and 18, T. 5 N., R. 77 W., Seward Meridian and Secs. 12, 13, 14, 15, 16, 22, 23, 24, 25 and 26, T. 5 N., R. 78 W., Seward Meridian.

The unnamed slough and lake system in Secs. 26, T. 5 N., R. 78 W., Seward Meridian.

The unnamed lake system in Secs. 26, 27, 34, 35 and 36, T. 5 N., R. 78 W., Seward Meridian; Secs. 4, 5, 6, 7, 8, 9 and 18., T. 4 N., R. 78 W., Seward Meridian; and Secs. 1, 12, 13, 21, 22, 23, 24, 26 and 27, T. 4 N., R. 79 W., Seward Meridian.

An unnamed slough where it flows from an unnamed lake in the SW¼, Sec. 36, northeasterly through the selection traversing Secs. 5 and 36 to the east boundary of Sec. 36, T. 5 N., R. 78 W., Seward Meridian.

The unnamed slough in Sec. 9, T. 4 N., R. 78 W., Seward Meridian.

The unnamed interconnecting lake system in Sec. 18, T. 4 N., R. 77 W., Seward Meridian and Secs. 2, 3, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28 and 35, T. 4 N., R. 78 W., Seward Meridian.

The unnamed interconnecting lake system in Sec. 4, 5, 8, 9, 10, 11, 15, 16, 17, 20, 21 and 22, T. 4 N., R. 77 W., Seward Meridian.

The unnamed slough where it flows from an unnamed lake in the SW¼, Sec. 5, T. 4 N., R. 77 W., Seward Meridian, northwesterly through the selection, thence northerly to its confluence with the Meroyuk River. Within the lands to be conveyed subject slough traverses Secs. 5, 6, 7 and 8, T. 4 N., R. 77 W., Seward Meridian.

The unnamed slough where it flows from an unnamed lake in the SW¼, Sec. 11, T. 4 N., R. 78 W., Seward Meridian to its confluence with the aforementioned unnamed slough in the NW¼, Sec. 6, T. 4 N., R. 77 W., Seward Meridian. Subject slough traverses Secs. 1, 11 and 12, T. 4 N., R. 78 W., Seward Meridian and Sec. 6, T., 4 N., R. 77 W., Seward Meridian.

The Kinak river where it flows from the unnamed lake in the SW¼, Sec. 27, T. 4 N., R. 78 W., Seward Meridian downstream to its confluence with the Kushokwim.

The interconnecting unnamed slough and lake system from where it flows from the unnamed lake system in the NW¼NW¼, Sec. 25, T. 4 N., R. 78 W., Seward Meridian southeasterly to its confluence with the Kinak River in Sec. 20, T. 3 N., R. 77 W., Seward Meridian.

The Tagayarak River from the approximate center of Sec. 1, T. 2 N., R. 80 W., Seward Meridian downstream to its confluence with the Kuskokwim River.

The Jewn River from near the center of Sec. 1, T. 2 N., R. 78 W., Seward Meridian downstream to its confluence with the Tagayarak River.

The unnamed branch of the Jewn River from the south boundary of Sec. 1, T. 2 N., R. 78 W., Seward Meridian northeasterly and downstream to its confluence with the main stem of the Jewn River near the east boundary of the same section.

The Kuskokwim river and its interconnecting sloughs.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the TUNDRA DRUMS. Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until August 18, 1980, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 "C" Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Tuntutuliak Land Limited, Tuntutuliak, Alaska 99680.

Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501.

Terry Hassett,

Acting Chief, Branch of Adjudication.

[FR Doc. 80-21468 Filed 7-17-80; 8:45 am]

BILLING CODE 4310-84-M

[F-14861-A and F-14861-B]

Alaska Native Claims Selections

On August 14 and December 2, 1974, Golovin Native Corporation, for the Native village of Golovin, Filed selection applications F-14861-A and F-14861-B under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611) (ANCSA), for the surface estate of certain lands in the vicinity of Golovin.

On November 14, 1978, the State of Alaska filed general purposes grant selection applications F-44510, F-44511, F-44529, F-44530, F-44548, F-44549, F-44556, F-44557, F-44558 and F-44562, all as amended, pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b)) for certain lands in the Golobin area.

The following described lands have been properly selected by Golobin Native Corporation or segregated by applications pursuant to the public land laws. Section 6(b) of the Alaska Statehood Act of July 7, 1958, provides that the State may select *vacant, unappropriated* and *unreserved* public lands in Alaska. Therefore, the following State selection applications are hereby rejected as to the following described lands:

Kateel River Meridian, Alaska (Unsurveyed)

State Selection F-44510

T. 9 S., R. 21 W.,
Secs. 6 and 7 all;
Secs. 18 and 19, all.
Containing approximately 2,384 acres.

State Selection F-44511

T. 9 S., R. 22 W.,
Secs. 1, 2 and 3, all;
Secs. 10 to 16, inclusive, all;

Secs. 21 to 29, inclusive, all;
Secs. 30, 31 and 32, excluding the Yuonglik River;
Secs. 33 to 36, inclusive, all.
Containing approximately 16,499 acres.

State Selection F–44529

T. 10 S., R. 21 W.,
Secs. 18, 19 and 20, all;
Secs. 29 to 33, inclusive, all.
Containing approximately 5,008 acres.

State Selection F–44530

T. 10 S., R. 22 W.,
Secs. 1 to 4, inclusive, all;
Sec. 5 (fractional), excluding the Yuonglik River;
Secs. 6, 7 and 8 (fractional), all;
Secs. 9 to 17, inclusive, all;
Secs. 18 and 19 (fractional), all;
Secs. 20 and 21 (fractional), excluding the Kachauik River;
Secs. 22 to 26, inclusive, all;
Secs. 27 and 28 (fractional), all;
Secs. 34 and 35 (fractional), all;
Sec. 36, all.
Containing approximately 16,281 acres.

State Selection F–44548

T. 11 S., R. 21 W.,
Secs. 4, 5 and 6, all;
Sec. 7 (fractional), all;
Secs. 8, 9, 15 and 16, all;
Secs. 17, 18 and 20 (fractional), all;
Secs. 21, 22 and 26, all;
Secs. 27, 28, 29 and 34 (fractional), all;
Secs. 35 and 36, all.
Containing approximately 10,086 acres.

State Selection F–44549

T. 11 S., R. 23 W.,
Secs. 4 and 5 (fractional), all;
Secs. 6, 7 and 8 all;
Secs. 9 and 10 (fractional), all;
Secs. 13, 14 and 15 (fractional), all;
Secs. 16, 21, 22 and 23, all;
Sec. 24 (fractional), all;
Secs. 25, 26 and 36, all.
Containing approximately 9,521 acres.

State Selection F–44556

T. 12 S., R. 20 W.,
Secs. 19 and 20, all;
Secs. 21 and 28, excluding U.S. Survey 2548;
Secs. 29 to 32, inclusive, all;
Sec. 33, excluding U.S. Survey 2548.
Containing approximately 5,511 acres.

State Selection F–44557

T. 12 S., R. 21 W.,
Secs. 1 and 2, all;
Secs. 3 and 10 (fractional), all;
Secs. 11 to 14, inclusive, all;
Secs. 15, 16, 22 and 23 (fractional), all;
Secs. 24 and 25, all;
Secs. 26, 27 and 35 (fractional), all;
Sec. 36, all.
Containing approximately 8,275 acres.

State Selection F–44558

T. 12 S., R. 22 W.
Secs. 2 and 3 (fractional), all;
Secs. 4 and 5, all;
Secs. 8, 9, 16 and 17 (fractional), all;
Secs. 20, 21, 28 and 29 (fractional), all;
Sec. 32 (fractional), all.
Containing approximately 4,535 acres.

State Selection F–44562

T. 13 S., R. 21 W.
Secs. 1 and 2, all;
Secs. 3 and 10 (fractional), all;
Secs. 11 and 12, all;
Sec. 13 (fractional), all;
Sec. 14, all;
Secs. 15, 22, 23 and 24 (fractional), all;
Secs. 26, 27 and 34 (fractional), all.
Containing approximately 6,550 acres.
Aggregating approximately 84,650 acres.

Further action on the above State selection applications, as to those lands not rejected herein will be taken at a later date. The State selected lands rejected above were not valid selections and will not be charged against the village corporation as State selected lands. State selections F–44530 and F–44557 are rejected in their entirety and the case files will be closed of record when this decision becomes final.

As to the lands described below, the applications submitted by Golovin Native Corporation, are properly filed, and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a), aggregating approximately 88,477 acres, is considered proper for acquisition by Golovin Native Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act:

Kateel River Meridian, Alaska (Unsurveyed)

T. 12 S., R. 20 W.
Secs. 19 and 20, all;
Secs. 21 and 28, excluding U.S. Survey 2548;
Secs. 29 to 32, inclusive, all;
Sec. 33, excluding U.S. Survey 2548.
Containing approximately 5,511 acres.
T. 9 S., R. 21 W.
Secs. 6 and 7, all;
Secs. 18 and 19, all.
Containing approximately 2,384 acres.
T. 10 S., R. 21 W.
Secs. 18, 19 and 20, all;
Secs. 29 to 33, inclusive, all.
Containing approximately 5,008 acres.
T. 11 S., R. 21 W.
Secs. 4, 5 and 6, all;
Sec. 7 (fractional), excluding Native allotments F–16618 and F–17484 Parcel A;
Sec. 8, excluding Native allotment F–17484 Parcel A;
Secs. 9, 15 and 16, all;
Secs. 17 and 18 (fractional), all;
Sec. 20 (fractional), excluding ANCSA Sec. 3(e) application F–23130;
Secs. 21, 22 and 26, all;
Secs. 27, 28 and 29 (fractional), all;
Sec. 34 (fractional), excluding Native allotment F–17482 Parcel D;
Secs. 35 and 36, all.
Containing approximately 9,899 acres.
T. 12 S., R. 21 W.
Secs. 1 and 2, all;
Secs. 3 and 10 (fractional), all;
Secs. 11, 12, 13 and 14, all;
Sec. 15 (fractional), excluding Native allotments F–14527 Parcel C and F–19201;
Sec. 16 (fractional), excluding Native allotment F–19201 and ANCSA Sec. 3(e) application F–23134;
Sec. 22 (fractional), excluding Native allotment F–17807 Parcel B;
Sec. 23 (fractional), excluding Native allotments F–17806 and F–17807 Parcel B;
Secs. 24 and 25, all;
Sec. 26 (fractional), excluding Native allotments F–17485 Parcel A and F–17807 Parcel B;
Sec. 35 (fractional), all;
Sec. 36, all.
Containing approximately 7,698 acres.
T. 13 S., R. 21 W.
Secs. 1 and 2, all;
Sec. 3 (fractional), excluding Native allotments F–14527 Parcel B and F–17483 Parcel A;
Sec. 10 (fractional), excluding Native allotment F–16024;
Secs. 11 and 12, all;
Sec. 13 (fractional), excluding Native allotment F–14527 Parcel A;
Sec. 14, all;
Secs. 15, 22, 23 and 24 (fractional), all;
Sec. 26 (fractional), all;
Sec. 27 (fractional), excluding ANCSA Sec. 3(e) application F–23132;
Sec. 34 (fractional), all.
Containing approximately 6,359 acres.
T. 9 S., R. 22 W.
Secs. 1, 2 and 3, all;
Secs. 10 to 16, inclusive, all;
Secs. 21 to 29, inclusive, all;
Secs. 30, 31 and 32, excluding the Yuonglik River;
Secs. 33 to 36, inclusive, all.
Containing approximately 16,499 acres.
T. 10 S., R. 22 W.
Sec. 1, all;
Sec. 2, excluding Native allotment F–17485 Parcel B;
Secs. 3 and 4, all;
Sec. 5 (fractional), excluding the Yuonglik River;
Secs. 6, 7 and 8 (fractional), all;
Secs. 9 to 15, inclusive, all;
Sec. 16, excluding Native allotment F–17480 Parcel B;
Sec. 17, all;
Sec. 18 (fractional), excluding Native allotment F–17487 Parcel C;
Sec. 19 (fractional), all;
Sec. 20 (fractional), excluding Native allotments F–17482 Parcel A, F–031225, F–031231 and the Kachauik River;
Sec. 21 (fractional), excluding Native allotment F–17482 Parcel A and the Kachauik River;
Secs. 22 to 26, inclusive, all;
Secs. 27 and 28 (fractional), all;
Sec. 34 (fractional), excluding Native allotment F–17488;
Sec. 35 (fractional), excluding Native allotments F–17484 Parcel B and F–17480;
Sec. 36, all.
Containing approximately 15,854 acres.
T. 11 S., R. 22 W.

Sec. 1, all;
Sec. 2 (fractional), all;
Sec. 11 (fractional), excluding U.S. Survey 5038 and U.S. Survey 3651;
Sec. 12 (fractional), excluding Native allotment F-16618;
Secs. 19, 21, 22 and 23 (fractional), all;
Sec. 26 (fractional), excluding Native allotment F-014741;
Sec. 27 (fractional), excluding Native allotment F-014741 and F-17482 Parcel C;
Sec. 28 (fractional), all;
Sec. 29 (fractional), excluding Native allotment F-17486 Parcel A;
Sec. 30 (fractional), excluding Native allotment F-17483 Parcel B;
Secs. 31, 32 and 33, all;
Sec. 34, (fractional), all.
Containing approximately 5,792 acres.
T. 12 S., R. 22 W.
Sec. 2 (fractional), all;
Sec. 3 (fractional), excluding Native allotment F-16876;
Sec. 4 (fractional), all;
Sec. 5, all;
Secs. 8 and 9 (fractional), excluding Native allotment F-17489;
Secs. 16 and 17 (fractional), excluding Native allotment F-13108;
Secs. 20 and 21 (fractional), all;
Sec. 29 (fractional), excluding Native allotment F-031232;
Sec. 32 (fractional), all.
Containing approximately 3,990 acres.
T. 11 S., R. 23 W.
Secs. 4 and 5 (fractional), all;
Secs. 6, 7 and 8, all;
Sec. 9 (fractional), all;
Sec. 10 (fractional), excluding Native allotment F-17482 Parcel B;
Secs. 13 and 14 (fractional), all;
Sec. 15 (fractional), excluding Native allotment F-17482 Parcel B;
Secs. 16, 21, 22 and 23, all;
Sec. 24 (fractional), all;
Secs. 25, 26 and 36, all.
Containing approximately 9, 483 acres.
Aggregating approximately 88, 477 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Sfat. 688, 708; 43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-14861-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: Travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: Travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, and four-wheel drive vehicles.

a. (EIN 1, C1, C3, D1, D9, L) An easement for an existing access trail twenty-five (25) feet in width from the eastern border of the selection in Sec. 23, T. 11 S., R. 21 W., Kateel River Meridian, westerly across Golovin Sound, through the village of Golovin and across Golovin Lagoon to the western boundary of the selection in Sec. 1, T. 11 S., R. 24 W., Kateel River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

b. (EIN 8 D1) An easement for an existing access trail fifty (50) feet in width from the village of Golovin northerly to trail EIN 9 L in Sec. 35, T. 9 S., R. 22 W., Kateel River Meridian. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

c. (EIN 8b C5) An easement for an existing access trail twenty-five (25) feet in width from the junction of trail EIN 8 D1 and trail EIN 9 L in Sec. 35, T. 9 S., R. 22 W., Kateel River Meridian at the Kachauik River, northwesterly to public lands. The uses allowed are those listed above for twenty-five (25) foot wide trail easement.

d. (EIN 9 L) An easement for a proposed access trail fifty (50) feet in width from trail EIN 8 D1 in Sec. 35, T. 9 S., R. 22 W., Kateel River Meridian at the Kachauik River, northeasterly to public lands. The uses allowed are those listed above for fifty (50) foot wide trail easement.

The grant of the lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way or easement, and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Golovin Native Corporation is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 88,477 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 3,683 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be granted to Bering Straits Native Corporation when conveyance is granted to Golovin Native Corporation for the surface estate, and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies within the described lands considered to be navigable.

The following water bodies are considered to be tidally influenced:

The Yuonglik River receives tidal influence throughout its length within the selection area.

The Kachauik River receives tidal influence to the north section line of Sec. 21, T. 10 S., R. 22 W., Kateel River Meridan.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the NOME NUGGET. Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until August 18, 1980, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and the requirement for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served are:

State of Alaska, Department of Natural Resources, Division of Research and Development, 323 East Fourth Avenue, Anchorage, Alaska 99501.

Golovin, Native Corporation, Golovin, Alaska 99762.

Bering Straits Native Corporation, P.O. Box 1008, Nome, Alaska 99762.

Terry R. Hassett,

Acting Chief, Branch of Adjudication.

[FR Doc. 80-21469 Filed 7-17-80; 8:45 am]

BILLING CODE 4310-84-M

Arizona; Safford District Advisory Council; Meeting

Notice is hereby given, in accordance with Pub. L. 94-579 and 43 CFR Part 1780, that a meeting of the Safford District Advisory Council will be held on August 26, 1980, at 10:00 a.m. at the Bureau of Land Mnagement Office, 425 East Fourth Street, Safford, Arizona 85546.

Agenda for the meeting will include:

1. Introduction and biographical sketch of Council Members.
2. Discussion of the purpose and function of the Council.
3. BLM goals, specifically related to the Safford District to include: current issues, major programs, land use planning, and wilderness inventory.
4. Council issues.
5. Election of officers.
6. Arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Council between 2:00 p.m. and 3:00 p.m. or may file written statements for the Council's consideration. Any one wishing to make an oral statement must notify the District Manager at the above address by August 18, 1980. Depending upon the number of persons wishing to make an oral statement, a per person time limit may be considered.

Summary minutes of the meeting will be maintained in the District Office and be available for public inspection and reproduction (within regular business hours) within 30 days following the meeting.

Guy E. Baier,

District Manager.

[FR Doc. 80-21623 Filed 7-17-80; 8:45 am]

BILLING CODE 4310-84-M

Intent To Prepare an Environmental Impact Statement for Johnson Valley to Parker Motorcycle Race Course

Notice is hereby given that an Environmental Impact Statement (EIS) is being prepared by the Cima Resource Area of the Riverside District, Bureau of Land Management (BLM), for a point-to-point motorcycle race course from Johnson Valley, San Bernardino County, California to a point near Vidal Junction, San Bernardino County, California. The proposed race is tentatively scheduled for the last weekend in October, 1980.

Scoping

Scoping of issues was performed by BLM without formal public participation. However, the BLM will contact and consult with landowners, interest groups, and local agencies to coincide with initation of the EIS.

Another notice will appear in the Federal Register about August 1 when a Draft Environmental Impact Statement is released for public review. For additional information or a copy of the draft EIS contact: Richard E. Crowe, Area Manager, Cima Resource Area, 3623 H-101 Canyon Crest Drive or P.O. Box 305, Riverside, CA 92507; Needles, CA 92363.

Proposed Action

The proposed action is to permit a point-to-point motorcycle race this fall. The course runs approximately 200 miles starting in the Johnson Valley Open Area and goes to the Vidal Junction area near Parker, Arizona by way of Pisgah Crater, Amboy Crater, Sheephole Pass, Cadiz Valley, Ward Valley, and the southern part of the Parker SCORE 400 race course. The maximum number of participants allowed will be 500. There will be a class start with approximately 250 riders in each.

The course width will be approximately twenty (20) feet in most places, checkpoints will be in unannounced locations and there will be four pit stops located at 40 to 50 mile intervals.

Patton Road Alternative

This alternative is identical to the proposed action except for a small change in course alignment in Cadiz Valley.

No Action

The only substantial alternative to the proposed action, other than the minor course changes, is not to authorize a point-to-point race.

This action is pursuant to the authority contained in Section 1501.7 of the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act of 1969 (40 CFR Parts 1500-1508).

James B. Ruch,

State Director, California.

[FR Doc. 80-21635 Filed 7-17-80; 8:45 am]

BILLING CODE 4310-84-M

[I-3379]

Idaho; Order Providing for Opening of Public Land

July 11, 1980.

1. By order dated January 23, 1978, the Federal Energy Regulatory Commission vacated the land withdrawal in its entirety for Power Project No. 406 of April 16, 1923, or to the following described land:

Boise Meridian

T. 11 S., R. 21 E.
Sec. 21, E½SE¼
Sec. 27, SW ¼
Sec. 34, NW¼NE¼, S½NE¼, NW¼, E½SE¼

The area described contains approximately 12 acres in Cassia County.

2. Subject to valid existing rights, the provisions of existing withdrawals and requirements of applicable law, and the lands described in paragraph one are hereby open to operation of the public land laws including the mining laws and the mineral leasing laws. All valid applications received at or prior to 10:00 a.m. August 14, 1980, shall be considered as simultaneous filed at that time. Those received thereafter shall be considered in the order of filing.

3. Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operation, Bureau of Land Management,

550 West Fort Street, Box 042, Boise, Idaho 83724.

Vincent S. Strobel,

Chief Branch of L&M Operations.

[FR Doc. 80-21640 Filed 7-17-80; 8:45 am]

BILLING CODE 4310-84-M

[INT FEIS 80-21]

Proposed Grazing Management for the Shivwits Resource Area, Mohave County, Ariz.; Availability of Final Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a final environmental impact statement for the Shivwits Resource Area. The proposal involves implementing an improved range management program on public lands within the Shivwits Resource Area of the Arizona Strip District in Northwest Arizona.

The final environmental impact statement is to be used in conjunction with the draft environmental impact statement. The final statement is made up of the comments, our responses to those comments and another alternative developed in response to comments received.

Comments on the final environmental impact statement can be submitted within 30 days of this notice, to the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

A limited number of copies are available upon request to the State Director at the above address.

Public reading copies will be available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th & C Streets, NW., Washington, D.C. 20240; Telephone (202) 343-5717.

Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073; Telephone (602) 261-3706.

Arizona Strip District, Bureau of Land Management, 196 E. Tabernacle, St. George, Utah 84770; Telephone (801) 673-3545.

Dated: July 10, 1980.

Clair M. Whitlock,

State Director.

[FR Doc. 80-21636 Filed 7-17-80; 8:45 am]

BILLING CODE 4310-84-M

Riverside District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Public Law 94-579, Title IV, Sec. 403, that a public meeting of the Riverside District Grazing Advisory Board will be held August 6, 1980.

The meeting will begin at 9:30 a.m. in the pool side room of Ramada Inn, 1150 University Avenue, Riverside, California.

The agenda for the meeting will include, 1) results of Grazing Board election and installation of new members, 2) summary report on use of range-betterment funds and emergency funds during fiscal year 1980, 3) status of Eastern San Diego County Grazing and Wilderness EIS, 4) status of the Grazing Element Consultation Process in the Desert Plan EIS, 5) priorities for use of range-betterment funds fiscal year 1981, 6) District Manager's forum for public comment.

If time allows, the public may make oral statements to the Board. Written statements, to be entered into the minutes, may be submitted to the Board for consideration.

Summary minutes of the Board meeting will be maintained in the District Office and will be available during regular business hours for public inspection within 30 days following the meeting.

Gerald E. Hillier,

District Manager.

[FR Doc. 80-21825 Filed 7-17-80; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

[Volume No. 21]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack and Crate

Petitions for Modification, Interpretation, or Reinstatement of Motor Carrier Operating Rights Authority

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the Federal Register with a copy being furnished the applicant. Protests to these applications will be *rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277.

Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 21866 (Sub-109MIF) (notice of filing of petition to modify certificate), filed May 19, 1980. Petitioner: West Motor Freight, Inc., 740 S. Reading Avenue, Boyertown, PA 19512. Representative: Alan Kahn, 14th Floor, Land Title Building, 100 S. Broad Street, Philadelphia, PA 19110. Petitioner holds a motor *common carrier* authority certificate in MC 21866 (Sub 109), issued October 16, 1979, authorizing transportation over irregular routes, of (1) *crusher parts, breaker parts, and grinder parts,* from the facilities of Ash Pump Company, in East Whiteland Township, Chester County, PA, to points in AZ, CO, FL, IL, LA, MI, MN, MT, NM, NV, TN, TX, UT and WI, and (2) *materials, and supplies* used in the manufacture of the commodities named

in (1) above (except in bulk), in the reverse direction. By the instant petition, petitioner seeks to modify the authority as follows: add the facilities of Ash Pump Company in Hamburg, PA, as an additional destination for materials and supplies (except in bulk).

MC 44447 (Sub-28 M1F) (notice of filing of petition to delete restrictions), filed May 30, 1980. Petitioner: SUBURBAN MOTOR FREIGHT, INC., 1100 King Ave., Box 1739, Columbus, OH 43216. Representative: James R. Stiverson, 1396 West Fifth Ave., P.O. Box 12241, Columbus, OH 43212. Petitioner holds a motor *common carrier* authority in certificate in MC 44447 Sub-28, issued April 5, 1974, authorizing transportation, over regular and irregular routes of *general commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, and those requiring special equipment) regular routes, between Middletown, Ohio, and Cincinnati, Ohio, serving the intermediate point of Hamilton, Ohio; from Middletown over Ohio Highway 4 to Cincinnati, and return over the same route. Alternate route for operating convenience only: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, and those requiring special equipment), between junction Ohio Highways 747 and 4, south of Middletown, Ohio, and junction Ohio Highways 747 and 4, north of Cincinnati, Ohio, serving no intermediate points: From junction Ohio Highways 747 and 4 south of Middletown over Ohio Highway 747 junction Ohio Highway 4, north of Cincinnati, and return over the same route. Restriction: The authority granted above is restricted against serving points in Kentucky within the Cincinnati, Ohio, Commercial Zone by the Commission. Irregular routes: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Cincinnati, Ohio, on the one hand, and, on the other, points in Ohio. Restriction: The operations authorized under the route next-above are restricted against service to or from points in Kentucky within the Commercial Zone of Cincinnati, Ohio, as defined by the Commission. Between Middletown, Ohio, on the one hand, and, on the other, all points in Ohio. By the instant petition, petitioner seeks to delete the following restrictions: (1) The authority granted above is restricted against serving points in Kentucky within the Cincinnati, Ohio, Commercial Zone as defined by the Commission, and (2) the operations authorized under the route next-above are restricted against service to or from points in Kentucky within the Commercial Zone of Cincinnati, Ohio, as defined by the Commission.

MC 103926 (Sub-59 M1F) (notice of filing of petition to delete a restriction) filed May 28, 1980. Petitioner: W. T. MAYFIELD SONS TRUCKING CO., a corporation, P.O. Box 947, Mableton, GA 30069. Representative: Wm. H. Diskell (same address as applicant). Petitioner holds a motor *common carrier* Certificate in MC 103926 Sub-59 issued May 19, 1978, authorizing transportation, over irregular routes, of *tractors* (except truck-tractors, commodities, which because of their size or weight require the use of special equipment, and self-propelled articles weighing 15,000 pounds or more), from Savannah, GA to points in LA, OK, and TX. By the instant petition, petitioner seeks to delete the restriction (except truck-tractors, commodities, which because of their size or weight require the use of special equipment, and self-propelled articles weighing 15,000 pounds or more).

MC 121060 (Subs-25, and E-25 through E-83 M2F) (notice of filing of petition to modify certificates) filed January 17, 1980. Petitioner: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Petitioner holds a motor *common carrier* certificate in MC 121060 Sub-25, issued April 22, 1975, and E-letter notice certificates Subs E-25 through E-83 published in the FR issues as follows: Subs E-25 through E-49 published June 23, 1975; E-50 published July 18, 1975 and republished September 29, 1975; E-51 through E-55 published July 18, 1975; E-56 through E-58 published July 17, 1975; E-59 and E-60 published July 22, 1975; E-61 published July 22, 1975 and republished July 28, 1976; E-62 through E-79 published July 22, 1975; E-80 published July 30, 1975; E-81 published July 28, 1975; E-82 published July 30, 1975; and E-83 published July 22, 1975. Sub-25 and Subs E-25 through 83 authorizes the following commodity: (1) *Ceiling systems, paint, plastic light diffusers, adhesives, furring, fasteners, lighting systems, moldings, steel shapes, steel rods, steel channels, steel ceiling beams, applicators and roofing caps,* and (2) *materials and supplies* utilized in the installation of the commodities in (1) above (except in bulk). Sub-25 and Subs E-25 through E-83 authorize transportation over irregular routes as follows: Sub-25 authorizes transportation from the facilities of Litecraft-Luminous Ceilings, Division of the Celotex Corporation, located at or near Scottsboro, AL, to points in ME, MI, NH, MN, VA, PA, MD, DE, KS, NY, IA, NJ, MS, AR, MO, OK, CT, OH, IL, WV, TX, VT, LA, KY, WI, and DC; Sub E-25 authorizes transportation from points in AL with exceptions to points in IA; Sub E-26 authorizes transportation from points in AL with exceptions to points in VA;

Sub E-27 authorizes transportation from points in AL with exceptions, to points in VA on and east of a line beginning at the WV-VA State line, then extending along U.S. Hwy 60 to junction U.S. Hwy 29, then along U.S. Hwy 29 to junction U.S. Hwy 501, then along U.S. Hwy 501 to the VA-NC State line; Sub E-28 authorizes transportation from points in AL, with exceptions, to points in VA, on and north of a line beginning at the TN-VA State line, then extending along Interstate Hwy 81 to junction Interstate Hwy 64, then along Interstate Hwy 64 to junction VA Hwy 22, then along VA Hwy 22 to junction VA Hwy 231, then along VA Hwy 231 to junction U.S. Hwy 15, then along U.S. Hwy 15 to junction VA Hwy 20, then along VA Hwy 20 to junction VA Hwy 3, then along VA Hwy 3 to junction U.S. Hwy 301, then along U.S. Hwy 301 to the VA-MD State line; Sub E-29 authorizes transportation from points in Russell and Barbour Counties, AL, to points in VA, on and north of a line beginning at the VA-WV State line, then extending along VA Hwy 55 to junction Interstate Hwy 66, then along Interstate Hwy 66 to the VA-DC line; Sub E-30 authorizes transportation from points in AL with exceptions, to points in MO; Sub E-31 authorizes transportation from points in AL with exceptions to points in MO, on and north of a line beginning at the MO-IL State line, then extending along U.S. Hwy 61 to junction MO Hwy 34, then along MO Hwy 34 to junction U.S. Hwy 60, then along U.S. Hwy 60 to junction MO Hwy 5, then along MO Hwy 5 to the MO-AR State line; Sub E-32 authorizes transportation from points in AL with exceptions, to points in MO on and north of U.S. Hwy 50; Sub E-33 authorizes transportation from points in AL with exceptions, to points in MO, on and north of U.S. Hwy 36; Sub E-34 authorizes transportation from points in AL with exceptions to points in KS; Sub E-35 authorizes transportation from points in Lauderdale, Franklin, Colbert, and Lawrence Counties, AL to points in KS on and west of a line beginning at the NE-KS State line, then along U.S.

Hwy 281 to junction Interstate Hwy 70, then along Interstate Hwy 70 to junction U.S. Hwy 183, then along U.S. Hwy 183 to junction KS Hwy 96, then along KS Hwy 96 to junction U.S. Hwy 283, then along U.S. Hwy 283 to the KS–OK State line; Sub E–36 authorizes transportation from points in AL with exceptions, to points in KS on, north, and west of a line beginning at the KS–NE State line, then along U.S. Hwy 77 to junction U.S. Hwy 24, then along U.S. Hwy 24 to junction U.S. Hwy 81, then along U.S. Hwy 81 to junction U.S. Hwy 56, then along U.S. Hwy 56 to junction KS Hwy 14, then along KS Hwy 14 to junction U.S. Hwy 50, then along U.S. Hwy 50 the KS–CO State line; Sub E–37 authorizes transportation from points in AL on and north of a line beginning at the AL–GA State line, then along U.S. Hwy 278 to junction U.S. Hwy 231, then along U.S. Hwy 231 to the AL–TN State line, to points in TX; Sub E–38 authorizes transportation from points in AL, (specified portion) to points in TX, on and west of a line beginning at the TX–LA State line, then along U.S. Hwy 84 to junction U.S. Hwy 59, then along U.S. Hwy 59 to junction U.S. Hwy 75, then along U.S. Hwy 75 to the Gulf of Mexico; Sub E–39 authorizes transportation from points in AL, (specified portion), to points in TX, on and west of a line beginning at the TX–OK State line, then along U.S. Hwy 281 to junction TX Hwy 29, then along TX Hwy 29 to junction TX Hwy 16, then along TX Hwy 16 to junction TX Hwy 39, then along TX Hwy 39 to junction U.S. Hwy 83, then along U.S. Hwy 83 to the US-Mexico International Boundary line; Sub E–40 authorizes transportation (a) from points in Limestone, Madison, Marshall, and Morgan Counties, AL, to points in TX, on and west of a line beginning at the TX–LA State line, then along U.S. Hwy 84 to junciton U.S. Hwy 259, then along U.S. Hwy 259 to junction TX Hwy 135, then along TX Hwy 135 to junction U.S. Hwy 271, then along U.S. Hwy 271 to the TX–OK State line; and (b) from points in Lauderdale, Colbert, Lawrence, Franklin, Marion, and Winston Counties, AL, to points in TX, on and west of a line beginning at the TX–OK State line, then along U.S. Hwy 62 to junction U.S. Hwy 83, then along along U.S. Hwy 83 to junction TX Hwy 610, then along TX Hwy 610 to junction TX Hwy 70, then along TX Hwy 70 to junction U.S. Hwy 277, then along U.S. Hwy 277 to junction U.S. Hwy 87, then along U.S. Hwy 87 to junction Interstate Hwy 10, then along Interstate Hwy 10 to junction U.S. Hwy 181, then along U.S. Hwy 181 to the Gulf of Mexico; Sub E–41 authorizes transportation from points in AL (specified portion) to points in TX, on and west of a line beginning at the TX–OK State line, then along U.S. Hwy 62 to junction U.S. Hwy 83, then along U.S. Hwy 83 to junction TX Hwy 57, then along TX Hwy 57 to junction TX Hwy 70, then along TX Hwy 70 to junction U.S. Hwy 277, then along U.S. Hwy 277 to junction U.S. Hwy 87, then along U.S. Hwy 87 to junction U.S. Hwy 83, then along U.S. Hwy 83 to junction U.S. Hwy 277, then along U.S. Hwy 277 to the U.S.-Mexico International Boundary line; Sub E–42 authorizes transportation from points in Elmore, Montgomery, Bullock, and Macon Counties, AL, to points in TX, on and north of a line beginning at the TX–OK State line, then along U.S. Hwy 60 to junction Interstate Hwy 27, then along Interstate Hwy 27 to junction U.S. Hwy 87, then along U.S. Hwy 87 to junction U.S. Hwy 180, then along US Hwy 180 to junction U.S. Hwy 385, then along U.S. Hwy 385 to junction TX Hwy 115, then along TX Hwy 115 to junction U.S. Hwy 80, then along U.S. Hwy 80 to junction TX Hwy 17, then along TX Hwy 17 to junction U.S. Hwy 67, then along U.S. Hwy 67 to the US-Mexico International Boundary line; Sub E–43 authorizes transportation from points in Tuscaloosa County, AL, points in TX, on and west of a line beginning at the TX–NM State line, then along U.S. Hwy 62/180 to junction TX Hwy 54, then along TX Hwy 54 to junction U.S. Hwy 90, then along U.S. Hwy 90 to junction U.S. Hwy 67, then along U.S. Hwy 67 to the US-Mexico International Boundary line; Sub E–44 authorizes transportation from points in Crenshaw and Pike Counties, AL, to points in TX, on and west of a line beginning at the TX–OK State line, then along U.S. Hwy 60 to junction U.S. Hwy 87, then along U.S. Hwy 87 to junction U.S. Hwy 62/385, then along U.S. Hwy 62/385 to junction TX Hwy 115, then along TX Hwy 115 to junction U.S. Hwy 80, then along U.S. Hwy 80 to junction TX Hwy 17, then along TX Hwy 17 to junction U.S. Hwy 67, then along U.S. Hwy 67 to the US-Mexico International Boundary line; Sub E–45 authorizes transportation from points in Dallas, Autauga, and Lowndes Counties, AL, to points in TX, on and north of Interstate Hwy 40; Sub E–46 authorizes transportation from points in AL (specified portion) to points in OK; Sub E–47 authorizes transportation from points in AL with exceptions to points in MN, WI, MI, ME, PA, NJ, DE, NH, VT, CT, NY, OH, WV, and DC; Sub E–48 authorizes transportation from points in AL with exceptions to points in that part of MD on, north, and west of a line beginning at the MD–DE State line extending along MD Hwy 318 to junction MD Hwy 331, then along MD Hwy 331 to junction U.S. Hwy 50, then along U.S. Hwy 50 to Choptank River; Sub E–49 authorizes transportation from points in AL (specified portion, with exceptions) to points in MD; Sub E–50 authorizes transportation from points in AL with exceptions, to points in KY; Sub E–51 authorizes transportation from points in AL with exceptions, to points in KY on and east of a line beginning at the KY–TN State line, extending along U.S. Alternate Hwy 41 to junction KY Hwy 91, then along KY Hwy 91 to the KY–IN State line; Sub E–52 authorizes transportation from points in Morgan and Cullman Counties, AL, to points in that part of KY on and east of a line beginning at the KY–TN State line extending along U.S. Hwy 127 to junction KY Hwy 90, then along KY Hwy 90 to junction Interstate Hwy 65, then along Interstate Hwy 65 to junction Ky Hwy 88, than along KY Hwy 88 to junction U.S. Hwy 62, then along U.S. Hwy 62 to junction

KY Hwy 259, then along KY Hwy 259 to the KY–IN State line; Sub E–53 authorizes transportation from points in AL (specified portion with exceptions), to points in KY on and north of a line beginning at US Hwy 27 extending along KY Hwy 90 to junction US Hwy 25W, then along US Hwy 25W to junction US Hwy 25, then along US Hwy 25 to junction KY Hwy 80, then along KY Hwy 80 to junction KY Hwy 699, then along KY Hwy 699 to junction KY Hwy 463, then along KY Hwy 463 to junction US Hwy 119, then along US Hwy 119 to junction KY Hwy 160, then along KY Hwy 160 to the KY–VA State line; Sub E–54 authorizes transportation from points in Colbert, Lawrence, Lauderdale, Limestone, and Franklin Counties, AL, to points in KY on and east of US Hwy 127; Sub E–55 authorizes transportation from points in Madison, Marshall, and Jackson Counties, AL, to points in KY on and east of a line beginning at the KY–TN State line extending along KY Hwy 163 to junction KY Hwy 80, then along KY Hwy 80 to junction KY Hwy 90, then along KY Hwy 90 to junction KY Hwy 70, then along KY Hwy 70 to junction US Hwy 231, then along US Hwy 231 to junction KY Hwy 136, then along KY Hwy 136 to junction US Hwy 41, then along US Hwy 41 to the KY–IN State line; Sub E–56 authorizes transportation from points in AL with exceptions, to points in IL; Sub E–57 authorizes transportation from points in AL to points in IL on and north of a line commencing at the IN–IL State line, then preceeding along IL Hwy 15 to its intersection with US Hwy 51, then along

US Hwy 51 to its intersection with IL Hwy 154, then along IL Hwy 154 to its intersection with IL Hwy 127, then along IL Hwy 127 to its intersection with IL Hwy 152, then along IL Hwy 152 to its intersection with IL Hwy 4, then along IL Hwy 4 to its intersection with Unnumbered County Hwy extending from Campbell Hill, IL, to Cora, IL, then along the Randolph-Jackson Counties, IL, line to the IL–MO State line; Sub E–58 authorizes transportation from points in AL with exceptions, to points in IL, on and north of a line commencing at the IL–IN State line, then along IL Hwy 15 to its junction with IL Hwy 37, then along IL Hwy 37 to its junction with US Hwy 50, then along US Hwy 50 to its intersection with IL Hwy 127, then along IL Hwy 127 to its intersection with US Hwy 66, then along US Hwy 66 to its intersection with IL Hwy 108, then along IL Hwy 108 to its intersection with IL Hwy 96, then along IL Hwy 96 to the Pike-Calhoun County, IL, line, then along the Pike-Calhoun County, IL, line to the IL–MO State line; Sub E–59 authorizes transportation from points in Lawrence, Limestone, and Morgan Counties, AL, to points in IL, on and north of a line commencing at the IL–IN State line, then along Interstate Hwy 70 to its intersection with IL Hwy 32, then along IL Hwy 32 to its intersection with IL Hwy 16, then along IL Hwy 16 to its intersection with IL Hwy 29, then along IL Hwy 29 to its intersection with IL Hwy 104, then along IL Hwy 104 to its intersection with US Hwy 36, then along US Hwy 36 to its intersection with US Hwy 54, then along US Hwy 54 to the IL–MO State line; Sub E–60 authorizes transportation from points in Jackson County, AL to points in ME, MI, NH, MN, VA, PA, MD, DE, KS, NY, IA, NJ, MS, AR, MO, OK, CT, OH, IL, WV, TX, VT, LA, KY, WI, and DC; Sub E–61 authorizes transportation from points in AL, (specified portion), to points in OK, on and west of a line commencing at the OK–AR State line, then extending along OK Hwy 83 to its intersection with US Hwy 59, then along Hwy 59 to its intersection with US Hwy 270, then along US Hwy 270 to its intersection with US Hwy 69, then along US Hwy 69 to the OK–TX State line; Sub E–62 authorizes transportation from points in Lauderdale, Colbert, Lawrence, Franklin, and Morgan Counties, AL, to points in OK on and west of US Hwy 83; Sub E–63 authorizes transportation from points in AL (specified portion, with exceptions), to points in OK on and west of a line commencing at the OK–KS State line, and extending along US Hwy 75 to junction Interstate Hwy 44, then along Interstate Hwy 44 to junction Interstate Hwy 40, then along Interstate Hwy 40 to the OK–TX State line; Sub E–64 authorizes transportation from points in AL (specified portion with exceptions), to points in that part of OK, on and west of a line commencing at the OK–KS State line, and extending along US Hwy 281 to junction US Hwy 64, then along US Hwy 64 to junction US Hwy 283, then along US Hwy 283 to junction US Hwy 270, then along US Hwy 270 to junction OK Hwy 23, then along OK Hwy 23, to the OK–TX State line; Sub E–65 authorizes transportation from points in AL (specified portion), to points in AR; Sub E–66 authorizes transportation from points in AL, (specified portion), to points in AR on and north of a line commencing at the AR–MS State line, and extending along US Hwy 49 to junction AR Hwy 1, then along AR Hwy 1 to junction AR Hwy 54, then along AR Hwy 54 to junction AR Hwy 114, then along AR Hwy 114 to junction AR Hwy 35, then along AR Hwy 35 to junction US Hwy 79, then along US Hwy 79 to the AR–LA State line; Sub E–67 authorizes transportation from points in Madison, Jackson, and Marshall counties, AL, to points in AR, on and west of a line commencing at the MO–AR State line, then along AR Hwy 9 to its intersection with AR Hwy 69, then along AR Hwy 69 to its intersection with US Hwy 167, then along US Hwy 167 to the AR–LA State line; Sub E–68 authorizes transportation from points in AL (specified portion), to points in AR on and west of a line commencing at the MO–AR State line and extending along US Hwy 67 to junction US Hwy 70, then along US Hwy 70 to the OK–AR State line; Sub E–69 authorizes transportation from points in AL (specified portion with exceptions), to points in AR, on and west of a line commencing at the AR–MO State line, and extending along AR Hwy 9 to junction AR Hwy 16, then along AR Hwy 16 to junction AR Hwy 16, then along AR Hwy 16 to junction AR Hwy 107, then along AR Hwy 107 to junction AR Hwy 36, then along AR Hwy 36 to junction US Hwy 64, then along US Hwy 64 to junction Interstate Hwy 40, then along Interstate Hwy 40 to junction US Hwy 70, then along US Hwy 70 to junction US Hwy 270, then along US Hwy 270 to the AR–OK State line; Sub E–70 authorizes transportation from points in AL (specified portion with exceptions), to points in AR on and west of a line commencing at the AR–MO State line, and extending along US Hwy 65 to junction AR Hwy 7, then along AR Hwy 7 to junction US Hwy 70, then along US Hwy 70 to the AR–OK State line; Sub E–71 authorizes transportation from points in Madison, Jackson, and DeKalb Counties, AL, to points in MS, on and south of a line commencing at the AL–MS State line, then along US Hwy 98 to its intersection with US Hwy 11, then along US Hwy 11 to its intersection with MS Hwy 13, then along MS Hwy 13 to its intersection with US Hwy 84, then along US Hwy 84 to its intersection with MS Hwy 27, then along MS Hwy 27 to its intersection with US Hwy 80, then along US Hwy 80 to the MS–LA State line; Sub E–72 authorizes transportation from points in Montgomery County, AL, to points in AR, on and west of a line commencing at the MO–AR State line, and extending along AR Hwy 9 to junction US Hwy 65, then along US Hwy 65 to junction US Hwy 70, then along US Hwy 70 to junction US Hwy 270, then along US Hwy 270 to the AR–OK State line; Sub E–73 authorizes transportation from points in Barbour County, AL, to points in MS, on and north of US Hwy 78; Sub E–74 authorizes transportation from points in Calhoun, Cleburne and Randolph Counties, AL, to points in MS, on and west of a line commencing at the MS–TN State line, and extending along US Hwy 51 to junction MS Hwy 32, then along MS Hwy 32 to junction US Hwy 49W, then along US Hwy 49W to junction MS Hwy 8, and then along MS Hwy 8 to the AR–MS State line; Sub E–75 authorizes transportation from points in Madison, Marshall, Jackson, and DeKalb Counties, AL, to points in LA; Sub E–76 authorizes transportation from points in AL (specified portion), to points in LA, on and west of a line commencing at the LA–AR State line, then along US Hwy 167 to its intersection with US Hwy 84, then along US Hwy 84 to its intersection with LA Hwy 6, then along LA Hwy 6, to its intersection with LA Hwy 1, then along LA Hwy 1 to its intersection with LA Hwy 8, then along LA Hwy 8 to its intersection with LA Hwy 465, then along LA Hwy 465 to its intersection with LA Hwy 112, then along LA Hwy 112 to its intersection with LA Hwy 10, then along LA Hwy 10 to its intersection with US Hwy 165, then along US Hwy 165 to its intersection with US Hwy 190, then along US Hwy 190 to its intersection with LA Hwy 26, then along LA Hwy 26 to its intersection with LA Hwy 14, then along LA Hwy 14 to its intersection with Cameron Parish, LA, then along the eastern boundary of Cameron Parish, LA, to the Gulf of Mexico; Sub E–77 authorizes transportation from points in Limestone and Morgan Counties, AL, to points in Cameron, Jefferson, Calcasieu, and Beauregard Parishes, LA; Sub E–78 authorizes transportation from Mobile,

AL, to points in MD, OH, WV, PA, NJ, DE, MN, WI, MI, ME, NH, VT, CT, NY, VA and DC; Sub E-79 authorizes transportation from Mobile, AL, to points in KY, on and east of a line commencing at the IN-KY State line, then along US Hwy 41 to its intersection with US Hwy 62, then along US Hwy 62 to its intersection with US Hwy 431, then along US Hwy 431 to the KY-TN State line; Sub E-80 authorizes transportation from Mobile, AL, to points in Mo, on and north of a line commencing at the IL-MO State line, then along US Hwy 54 to its intersection with MO Hwy 19, then along MO Hwy 19 to its intersection with MO Hwy 154, then along MO Hwy 154 to its intersection with US Hwy 24, then along US Hwy 24 to its intersection with MO Hwy 5, then along MO Hwy 5 to its intersection with US Hwy 36, then along US Hwy 36 to its intersection with MO Hwy 13, then along MO Hwy 13 to its intersection with US Hwy 136, then along US Hwy 136 to the MO-NE State line; Sub E-81 authorizes transportation from Mobile, AL, to points in IL on and north of US Hwy 50; Sub E-82 authorizes transportation from Mobile, AL, to points in KS, on and north of a line commencing at the KS-NE State line, then along US Hwy 73 to its intersection with US Hwy 36, then along US Hwy 36 to its intersection with US Hwy 75, then along US Hwy 75 to its intersection with KS Hwy 16, then along KS Hwy 16 to its intersection with KS Hwy 13, then along KS Hwy 13 to its intersection with US Hwy 24, then along US Hwy 24 to its intersection with KS Hwy 177, then along KS Hwy 177 to its intersection with US Hwy 40, then along US Hwy 40 to its intersection with US Hwy 156, then along US Hwy 156 to its intersection with KS Hwy 96, then along KS Hwy 96 to its intersection with US Hwy 83, then along US Hwy 83 to its intersection with US Hwy 40, then along US Hwy 40 to the KS-CO State line; Sub E-83 authorizes transportation from Mobile, AL, to points in IA, on and north of a line commencing at the MO-IA State line, then along Interstate Hwy 35 to its intersection with Interstate Hwy 80, then along Interstate Hwy 80 to the NE-IA State line; By the instant petition, petitioner seeks to modify the above certificates to authorize (1) *ceiling systems, paint, plastic light diffusers, adhesives, furring, fasteners, lighting systems, moldings, steel shapes, steel rods, steel channels, steel ceiling beams, applicators and roofing caps,* (2) *materials and supplies* utilized in the installation of the commodities in (1) above (except in bulk), and (3) *metal articles,* from points in AL, to points in ME, MI, NH, MN, VA, PA, MD, DE, KS, NY, IA, NJ, MS, AR, MO, OK, CT, OH, IL, WV, TX, VT, LA, KY, WI, and DC.

MC 129747 (Sub-3M2F), notice of filing of petition to modify territorial description) filed May 27, 1980. Petitioner: CASCO SERVICES, INC., P.O. Box 830, Fanwood, NJ 07023. Representative: George A. Alsen, P.O. Box 357, Gladstone, NJ 07934. Petitioner holds a motor *common carrier* authority in certificate MC-129747 Sub 3 issued December 12, 1979, authorizing transportation, over irregular routes, of *general commodities* (except classes A and B explosives, commodities in bulk, household goods as defined by the Commission, commodities of unusual value, and those requiring special equipment), in containers, between (1) points in that portion of the New York, NY Commercial Zone, as defined in Commercial Zones and Terminal Areas, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of Section 203(b)(8) of the Interstate Commerce Act (the "exempt zone"), and (2) Somerville, NJ, on the one hand, and, on the other, points in Middlesex, Monmouth, Ocean, and Somerset Counties, NJ, restricted to the transportation of traffic having a prior or subsequent movement by rail or water. By the instant petition, petitioner seeks to modify the authority to read: transporting *general commodities* (except classes A and B explosives, commodities in bulk, household goods as defined by the Commission, commodities of unusual value, and those requiring special equipment), in containers, between points in the New York, NY Commercial Zone, as defined in Commercial Zones and Terminal Areas, 53 M.C.C. 451, on the one hand, and, on the other, points in NJ, and Nassau, Suffolk, Westchester, Orange, Rockland, Putnam, Dutchess and Sullivan Counties, NY, restricted to shipments having a prior or subsequent movement by rail or water.

Permanent Authority Decisions Volume Decision-Notice

Decided: July 1, 1980.

The following broker, freight forwarder or water carrier applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the Federal Register. Failure to file a protest on or before August 18, 1980 will be considered as a waiver of opposition to the application. A protest under these rules shall comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, as specifically noted below), and specify with particularity the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use this authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV,

United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones. Member Jones not participating.

MC 130855F, filed April 10, 1980. Applicant: ALOHA TRAVEL AGENCY, INC., 2216 E. Oakland Park Blvd., P.O. Box 11600, Fort Lauderdale, FL 33339. Representative: L. J. Erlsten, 2216 E. Oakland Park Blvd., P.O. Box 11600, Ft. Lauderdale, FL 33339. To engage in operations, in interstate or foreign commerce, as a *broker*, at Ft. Lauderdale, FL, in arranging for the transportation, by motor vehicle, of passengers and their baggage, in special and charter operations, beginning and ending at points in Broward County, FL, and extending to points in the U.S. (except AK and HI). (Hearing site: Ft. Lauderdale or Miami, FL.)

MC 130877F, filed April 30, 1980. Applicant: ATLANTIC TOUR SERVICE, DIVISION OF ATLANTIC CHARTER BUS SERVICE, INC., 6539 E. Virginia Beach Blvd., Norfolk, VA 23502. Representative: Steven L. Weiman, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. To engage in operations, in interstate or foreign commerce, as a *broker*, at Gloucester and Norfolk, VA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, between points in the U.S., including AK and HI. (Hearing site: Norfolk, VA.)

MC 130893F, filed May 5, 1980. Applicant's name and address are: B. W. Ross, 552 Seacrest Drive, Largo, FL 33541. The name under which operations will be performed is LOAD 'N' GO TRANSPORTATION SERVICES. Applicant is represented by John R. Bagileo in this proceeding whose address is 700 World Center Building, 918—16th St. NW., Washington, DC 20006. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: B. W. Ross, whose business address is 552 Seacrest Drive, Largo, FL 33541, President; B. C. Witt, whose business address is 13740 Monfort St., Dallas, TX 75240, Vice President; C. J. Witt, whose business address is 13740 Monfont St., Dallas, TX 75240, Secretary; L. E. Ross, whose business address is 552 Seacrest Drive, Largo, FL 33541, Treasurer; S. M. Manifold, whose business address is 316 Camelback Rd., Pleasant Hill, CA 94523, Director; E. W. Williams, whose business address is 2620 N.W. 58th Place, Oklahoma City, OK 73112, Director; and T. M. Jones, whose business address is 3716 Marquette St., Dallas, TX 75225, Director. The daily operations will be managed by B. W. Ross, whose business address is 552 Seacrest Drive, Largo, FL 33541. Applicant is affiliated with the following shipper or warehouse: None.

MC 130904, filed May 14, 1980. Applicant's name and address are: CO-AM TRANSPORT SERVICES, INC., Room 1919, Wachovia Center, Charlotte, NC 28202. The name under which operations will be performed is CO-AM TRANSPORT SERVICES, INC. Applicant is represented by Charles R. Livingston, Sr., in this proceeding whose address is 418 Hudson Dr., Harrisburg, NC 28075. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Charles R. Livingston, Sr., General Manager and Secretary, whose address is the same as the applicant, Anthony Drew Sosebee, Manager Special Division and Treasurer, 2101 Club Drive, Apt. 5, Dalton, GA 30720, and C. S. Tyson, Sales Coordinator and Vice-President, P.O. Box 894 (Rural Route), Wadesboro, NC 28170. The daily operations will be managed by Charles R. Livingston, Sr., whose address is the same as the applicant. Applicant is not affiliated with shipper any shippers or warehouse.

MC 130905F, filed May 13, 1980. Applicant's name and address are: HPH TRANSPORTATION, INC., 4422 Quirt, Lubbock, TX. The name under which operations will be performed is HPH TRANSPORTATION, INC. Applicant is represented by Curtis Rainwater, whose address is P.O. Box 3486, Lubbock, TX 79452. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Curtis Rainwater, President, Dale E. Wiggins, Vice President, and D. D. McCurry, Secretary-Treasurer, whose addresses are the same as the representative. The daily operations will be managed by Curtis Rainwater, whose address is the same as the representative. Applicant is not affiliated with any shippers or warehouses.

MC 130910F, filed May 19, 1980. Applicant's name and address are: A & G TRUCK BROKERS, INC., 2439 East 14th St., Los Angeles, CA 90021. The name under which operations will be performed is A & G TRUCK BROKERS, INC. Applicant is represented by Miles L. Kavaller, 315 South Beverly Drive, Beverly Hills, CA 90212. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Gary I. Goldfein, President, Director and shareholder, Allen Steiner, Secretary, Director and shareholder, and George Goldfein, Chief Finance Officer and Director (all of same address as applicant). The daily operations will be managed by Gary I. Goldfein, whose business address is 2439 East 14th St., Los Angeles, CA 90021. Applicant is affiliated with the following shipper or warehouse: None.

MC 130921F, filed May 30, 1980. Applicant's name and address are Atlas Van Lines, Inc., 1212 St. George Rd, Evansville, IN 47736. The name under which operations will be performed is Atlas Van Lines, Inc. Applicant is represented by Michael L. Harvey, (same address as applicant). Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: O. H. Frisbie, Chairman of the Board and Chief Executive Officer, Director and shareholder, 1425 Schaefer Hwy., Detroit, MI 48227; Robert R. C. Miller, Vice Chairman and Director; Edward A. Bland, President and Chief Operating Officer and Director; Norman

D. Gee, Vice President, Finance and Treasurer; Michael L. Harvey, Vice President Law and Secretary; Walter L. Moore, Senior Vice President Operations; Donald L. Johnson, Vice President Household Goods; Robert D. Jeske, Vice President Special Products; Edward J. Cox, Vice President; James R. Patterson, Vice President Customer Services, Insurance and Safety; Jesse E. Kent, Vice President, Marketing; Robert C. Mills, Vice President New Products; A. E. Riepe, Assistant Secretary; Ben J. Sloan Controller, (all at same address as applicant); Milton B. Pollock, Director, 26032 Five Mile Rd., Detroit, MI 48239; Gene Bert, Director, 516 West 181st St., New York, NY 10033; Jack E. Jepsen, Director and shareholder, 1000 N. Villa Ave., Villa Park, IL 60181; Albert Lee Paxton, Director and shareholder, 5300 Port Royal Rd., Springfield, VA 22151; Thomas J. Shetler, Director, 1253 Diamond Ave., Evansville, IN 47727; John U. Steiner, Director, 1900 E College Ave., Cudahy, WI 53110; Kensyl V. Winter, Director, 111 South Pratt Parkway, Longmont, CO 80501; John R. Westerberg, Director, 1201 Arthur Ave., Elk Grove Village, IL 60007; Edbland Management Ltd., shareholder, 485 North Service Rd., East, Oakville, Ontario, Canada; and Jack Needles, President Needles Moving & Storage Co., shareholder, 3001 Locust St., St. Louis, MO 63106. The daily operations will be managed by Edward A. Bland whose business address is 1212 st. George Rd., Evansville, IN 47736. Applicant is affiliated with the following shipper or warehouse: None.

MC 130924F, filed May 27, 1980. Applicant: FISHER'S TRAVEL SERVICE, INC., 2765 Tolbut St., Philadelphia, PA 19152. Representative: Sara Duffy, 612 One East Penn Square, Philadelphia, PA 19107. To engage in operations as a *broker,* at Philadelphia, PA, to arrange for the transportation of *passengers and their baggage,* in special and charter operations, beginning and ending at points in Philadelphia County, PA, and extending to points in the U.S. (except AK and HI). (Hearing site: Philadelphia, PA.)

MC 130925F, filed May 29, 1980. Applicant's name and address are LANGLEY TRAFFIC SERVICE, INC., 1107 Alvin Ave., Cornwells Heights, PA 19020. The name under which operations will be performed is LANGLEY TRAFFIC SERVICE, INC. Applicant is represented by Francis W. Doyle, in this proceeding, whose address is 323 Maple Ave., Southampton, PA 18966. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Nancy Langley, President, Secretary-Treasurer, and sole stockholder, whose address is the same as the applicant. The daily operations will be managed by Nancy Langley, whose address is the same as the applicant. Applicant is not affiliated with shippers or warehouses.

MC 130926F, filed May 28, 1980. Applicant's name and address are: FLOYD & BEASLEY TRANSFER COMPANY, INC., P.O. Drawer 8, Sycamore, AL 35149. The name under which operations will be performed is FLOYD & BEASLEY TRANSFER COMPANY, INC. Applicant is represented by Charles Ephrain in this proceeding whose address is Suite 600, 1250 Connecticut Ave. NW., Washington, DC 20036. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: J. D. Beasley, President, Treasurer, Director and Shareholder, Gertrude B. Floyd, Executive Vice President, Director, Shareholder, and Trustee for the estate of Cecil R. Floyd, Erris H. Barnett, Vice President, Robert O. Barnett, Vice President, Jack Craddock, Jr., Vice President, Joe Hopkins, Vice President, David Beasley, Vice President, French Floyd, Vice President, Ray White, Vice President and Secretary and Edna B. Beasley, Director, Shareholder, and 1st National Bank of Sylacauga, Trustee for Kenneth Earl Beasley, Kay Dianne Craddock, Diana Sharon Hopkins, Jule David Beasley, Jr. and Kathoise Yolande Gardner, all above have the same address as applicant. The daily operations will be managed by Erris Barnett, whose business address is P.O. Drawer 8, Sycamore, AL 35149. Applicant is affiliated with the following shipper or warehouse: None.

MC 130932F, filed June 3, 1980. Applicant: PROMOTIONAL TOURS INTERNATIONAL, 410 East 25th Avenue, North Wildwood, NJ 08260. Representative: Harry C. Deputy (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker,* at North Wildwood, NJ, in arranging for the transportation, by motor vehicle, of passengers and their baggage, in special and charter operations between points in NJ, PA, MD, DE, OH, NY, MA, RI and CT, on the one hand, and, on the other, points in Atlantic and Cape May Counties, NJ. (Hearing sites: Philadelphia, PA, Newark, NJ, or Washington, DC.)

MC 130933F, filed June 3, 1980. Applicant: SYBLE J. BROWN, d.b.a. SYBLE BROWN TOURS, Star Route, Faith, SD 57626. Representative: Bruce A. Hubbard, P.O. Box 580, Sturgis, SD 57785. To engage in operations, in interstate or foreign commerce, as a *broker,* at Star Route and Faith, SD and Glenfield, ND, in arranging for the transportation of *passengers and their baggage,* in special or charter operations, between points in the U.S. (including AK, but excluding HI). (Hearing sites: Rapid City or Pierre, SD.)

MC 130934F, filed June 3, 1980. Applicant's name and address are: M. G. MAHER & CO., INC., 442 Canal St., Room 304, New Orleans, LA 70130. The name under which operations will be performed is M. G. MAHER & CO., INC. Applicant is represented by itself. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Paula L. Maher, President, Paul F. Wegener, Vice President, Leo Mercado, Vice President, Ralph E. Benzaquen, Vice President, and David P. Schulingkamp, Secretary and Treasurer, whose addresses are the same as the applicant. The daily operations will be managed by Paula L. Maher, whose business address is the same as the applicant. Applicant is not affiliated with any shippers or warehouses.

MC 130941F, filed June 6, 1980. Applicant: RYAN TRAVEL, INC., 109 West Ridge Ave., Conshohocken, PA 19148. Representative: Robert B. Einhorn, 3220 P.S.F.S. Bldg., 12 South 12th St., Philadelphia, PA 19107. To engage in operations, in interstate or foreign commerce, as a *broker,* at Conshohocken, PA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage,* in the same vehicle with passengers, in one-way and round-trip special and charter operations, between points in Philadelphia and Montgomery Counties, PA, on the one hand, and, on the other, points in the United States (excluding AK and HI). (Hearing site: Philadelphia, PA.)

MC 130942F, filed June 9, 1980. Applicant: CARDINAL INDUSTRIES, INC., 6062 Channingway Blvd., Columbus, OH 43227. Representative: Orval E. Fields, II, 3660 S. Hamilton Rd., Columbus, OH 43227. To engage in operations, in interstate or foreign commerce, as a *broker,* at Columbus, OH, in arranging for the transportation,

by motor vehicle, of *passengers and their baggage,* in special or chartered operations, between points in Franklin County, OH, on the one hand, and, on the other, points in the U.S. (including AK and HI). (Hearing site: Columbus, OH.)

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before August 18, 1980.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Property

MC 5888 (Deviation No. 7), MID-AMERICAN LINES, INC., 127 West 10th Street, Kansas City, MO 64105, filed June 26, 1980. Carrier's representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From the junction of US Hwys 61 and 16, at LaCrosse, WI, over US Hwy 61 to junction Interstate Hwy 80 at Davenport, IA, then over Interstate Hwy 80 to junction Interstate Hwy 280, then over Interstate Hwy 280 to junction US Hwy 67, then over US Hwy 67 to junction US Hwy 367, then over US Hwy 367 to St. Louis, MO, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From the junction of US Hwys 61 and 16, at LaCrosse, WI over US Hwy 16 to Tomah, WI, then over US Hwy 12 to Wisconsin Dells, WI, then over US Hwy 16 to Portage, WI, then over US Hwy 51 to Madison, WI, then over US Hwy 14 to Chicago, IL, then over Interstate Hwy 55 to St. Louis, MO, and return over the same route.

MC 35320 (Deviation No. 35), T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408, filed April 4, 1980. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Kansas City, MO over Interstate Hwy 70 to St. Louis, MO and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Kansas City, MO over US Hwy 50 to Warrensburg, MO, then over Missouri Hwy 13 to Springfield, MO, then over US Hwy 66 to St. Louis, MO, and return over the same route.

MC 110325 (Deviation Route No. 41), filed June 19, 1980. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Representative: Jerome Biniasz (same address as above). Carrier proposes to operate as a *common carrier* by motor vehicle, in interstate and foreign commerce, over regular routes, transporting *general commodities,* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), over a deviation route as follows: from Dallas, TX, over U.S. Hwy 75 to junction combined U.S. Hwys 75 and 69, then over combined U.S. Hwys 75 and 69 to junction U.S. Hwy 69, then over U.S. Hwy 69 to junction Interstate Hwy 44, then over Interstate Hwy 44 to junction U.S. Hwy 166, then over U.S. Hwy 166 to junction KS Hwy 26, then over KS Hwy 26 to junction U.S. Hwy 69, then over U.S. Hwy 69 to junction Interstate Hwy 435, then over Interstate Hwy 435 to Kansas City, MO, and return over the same route for operating convenience only. The notice indicates the carrier is presently authorized to transport the same commodities over a pertinent service route, as follows: from Dallas, TX over U.S. Hwy 77 to Oklahoma City, then over U.S. Hwy 66 to Tulsa, OK, then over U.S. Hwy 75 to junction KS Hwy 47, then over KS Hwy 47 to junction U.S. Hwy 169, then over U.S. Hwy 169 to junction U.S. Hwy 59, then over U.S. Hwy 59 to junction KS Hwy 68, then over KS Hwy 68 to junction KS Hwy 33, then over KS Hwy 33 to junction U.S. Hwy 50, then over U.S. Hwy 50 to junction KS Hwy 10, then over KS Hwy 10 to Kansas City, MO, and return over the same route.

MC 110325 (Deviation Route No. 42), filed June 20, 1980. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Representative: Jerome Biniasz (same address as above). Carrier proposes to operate as a *common carrier* by motor vehicle in interstate and foreign commerce, over regular routes, transporting *general commodities,* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) over a deviation route as follows: from Oklahoma City, OK over Interstate Hwy 40 to junction Interstate Hwy 17, then over Interstate Hwy 17 to Phoenix, AZ, and return over the same route for operating convenience only. The notice indicates the carrier is presently authorized to transport the same commodities over a pertinent service route, as follows: from Oklahoma City over U.S. Hwy 277 to junction U.S. Hwy 62, then over U.S. Hwy 62 to junction U.S. Hwy 183, then over U.S. Hwy 183 to junction U.S. Hwy 70, then over U.S. Hwy 70 to junction U.S. Hwy 80, then over U.S. Hwy 80 to junction NM Hwy 14, then over NM Hwy 14 to junction AZ Hwy 86, then over AZ Hwy 86 to junction U.S. Hwy 80, then over U.S. Hwy 80 to junction AZ Hwy 84, then over AZ Hwy 84 to junction AZ Hwy 87, then over AZ Hwy 87 to junction U.S. Hwy 60, then over U.S. Hwy 60 to Phoenix, and return over the same route.

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

MC 4884 (Sub-6), filed June 4, 1980. Applicant: DAYTON MOTOR EXPRESS, INC., P.O. Box 110, Dayton, TN 37321. Representative: Val Sanford, P.O. Box 2757, Nashville, TN 37219. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities, over regular routes, except used household goods, commodities in bulk, Classes A and B explosives, and commodities requiring special equipment: (1) Between Watts Bar Dam, TN, and Knoxville, TN; from Watts Bar Dam, TN, over State Highway

68 to Madisonville, TN; thence over U.S. Highway 411 to Maryville, TN: thence over U.S. Highway 129 to Knoxville, TN; and return over the same route; serving all intermediate points. (2) Between Knoxville, TN, and Chattanooga, TN, over Highway 11 and return over the same route; serving all intermediate points. (3) Between Kingston, TN, and Chattanooga, TN, over State Highway 58 and return over the same route; serving all intermediate points. (4) Between Lenoir City, TN, and Maryville, TN, over State Highway 95 and return over the same route; serving all intermediate points. (Note: new Highway 95) (5) As an alternate route, for operating convenience only, between Knoxville, TN, and Chattanooga, TN, over Interstate Highway 75 and return over the same route. All of the above routes are to be joined with one another and with all of applicant's existing authority. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Tennessee Public Service Commission, Cordell Hull Building, Nashville, TN 37219, and should not be directed to the Interstate Commerce Commission.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-21490 Filed 7-17-80; 8:45 am]

BILLING CODE 7035-01-M

Intent To Engage in Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) and 49 CFR 1136.3 that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

I

A. Parent corporation and address of principal office:

General Telephone & Electronics Corporation, One Stamford Forum, Stamford, Conn. 06904.

B. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(1) GTE Service Corp., One Stamford Forum, Stamford, Connecticut 06904.

(2) GTE Automatic Electric, Inc., 400 North Wolf Road, Northlake, Illinois 60164.

(3) GTE Automatic Electric Laboratories, Inc., 400 North Wolf Road, Northlake, Illinois 60164.

(4) GTE Data Services, Inc., First Financial Tower, Tampa, Florida 33601.

(5) GTE Information Systems, Inc., One Stamford Forum, Stamford, Connecticut 06904.

(6) GTE International, Inc., One Stamford Forum, Stamford, Connecticut 06904.

(7) GTE Laboratories, Inc., One Stamford Forum, Stamford, Connecticut 06904.

(8) GTE Lenkurt, Inc., 1105 County Road, San Carlos, California 94070.

(9) GTE Products Corp., One Stamford Forum, Stamford, Connecticut 06904.

(10) GTE Realty Corp., One Stamford Forum, Stamford, Connecticut 06904.

(11) GTE Satellite Corp., One Stamford Forum, Stamford, Connecticut 06904.

(12) GTE Shareholders Services, Inc., 1776 Heritage Drive, Quincy, Massachusetts 02171.

(13) GTE Telecommunications Systems, Inc., One Stamford Forum, Stamford, Connecticut 06904.

(14) GTE Communications Network Systems, Inc., One Stamford Forum, Stamford, Connecticut 06904.

(15) GTE Telenet Corp., 8330 Old Courthouse Road, Vienna, Virginia 22180.

(16) GTE COMP—ACCT 5300 East LaPalma Avenue, Anaheim, California 92807.

(17) Lenkurt Electric Laboratories, Inc., 1105 County Road, San Carlos, California 94070.

(18) GTE Sylvania Precision Materials, Inc., 100 Endicott Street, Danvers, Massachusetts 01923.

(19) Colonial Merchandising Corp., 100 Endicott Street, Danvers, Massachusetts 01923.

(20) Sylvania Export Corp., One Stamford Forum, Stamford, Connecticut 06904.

(21) Sylvania Lighting Co., 100 Endicott Street, Danvers, Massachusetts 01923.

(22) Sylvania Lighting Services Co., 100 Endicott Street, Danvers, Massachusetts 01923.

(23) Sylvania Overseas Trading Corp., One Stamford Forum, Stamford, Connecticut 06904.

(24) Sylvania Technical Systems, Inc., 140 First Avenue, Waltham, Massachusetts 02154.

(25) GTE Information Systems International, Inc., 140 First Avenue, Waltham, Massachusetts 02154.

(26) GTE International Systems Corp., 140 First Avenue, Waltham, Massachusetts 02154.

(27) GTE Overseas Corp., One Stamford Forum, Stamford, Connecticut 06904.

(28) GTE Export Corp., One Stamford Forum, Stamford, Connecticut 06904.

(29) GTE Micro Circuits, Inc., 2000 West 14th Street, Tempe, Arizona 85281.

(30) Bethel and Mt. Aetna Telephone and Telegraph Co., 150 West Tenth Street, Erie, Pennsylvania 16512.

(31) General Telephone Company of Alaska, 1800 41st Street, Everett, Washington 98206.

(32) General Telephone Company of Florida, P.O. Box 110, 610 Morgan Street, Tampa, Florida 33601

(33) General Telephone Company of Indiana, Inc., 8001 West Jefferson Blvd., P.O. Box 1201, Fort Wayne, Indiana 46801.

(34) General Telephone Company of Kentucky, P.O. Box 1650, First Security Plaza, Lexington, Kentucky 40592.

(35) General Telephone Company of Michigan, 455 East Ellis Road, Muskegon, Michigan 49443.

(36) General Telephone Company of the Midwest, 11 Eleventh Avenue, Ginnnell, Iowa 50112.

(37) General Telephone Company of the Northwest, 1800 41st Street, P.O. Box 1003, Everett, Washington 98206.

(38) General Telephone Company of Ohio, 100 Executive Drive, Marion, Ohio 43302.

(39) General Telephone Company of Pennsylvania, 150 West Tenth Street, Erie, Pennsylvania 16512.

(40) General Telephone Company of the Southeast, 3632 Roxboro Road, P.O. Box 1412, Durham, North Carolina 27702.

(41) General Telephone Company of the Southwest, 2701 South Johnson Street, P.O. Box 1001, San Angelo, Texas 76901.

(42) General Telephone Company of Wisconsin, P.O. Box 49, 100 Communications Drive, Sun Prairie, Wisconsin 53590.

(43) Hawaiian Telephone Company, 1177 Bishop Street, P.O. Box 2200, Honolulu, Hawaii.

(44) General Telephone Directory Company, 1865 Miner Street, Des Plaines, Illinois 60016.

II

A. Parent corporation and address of principal office:

Jim Walter Corp., 1500 North Dale Mabry, Tampa, FL 33622.

B. Wholly-owned subsidiaries which will participate in the operations:

(1) The Celotex Corp., 1500 North Dale Mabry, Tampa, FL 33622.

Subsidiaries of Celotex:

Carey-Canada, Inc., P.O. Box 190, East Broughton Station, Quebec, Canada GON 1HO.

Jim Walter Export, Inc., 1500 North Dale Mabry, Tampa, FL 33622.

Jim Walter Research Corp., 10301 Ninth Street North, St. Petersburg, FL 33702.

Divisions of Celotex:

Briggs, 1500 North Dale Mabry, Tampa, FL 33607.

The Columbia Moulding Co., 4747 Hollins Ferry Road, Baltimore, MD 21227.

Gamble Bros., Inc., 4601 Allmond Avenue, Louisville, KY 40221.

Hamer Lumber Co., 901 12th St., Kenova, WV 25530.

Jim Walter Doors, 1500 North Dale Mabry, Tampa, FL 33607.

Jim Walter Metals, 1500 North Dale Mabry, Tampa, FL 33607.

Jim Walter Window Components, 1500 North Dale Mabry, Tampa, FL 33607.

Miami-Carey, 203 Garver Road, Monroe, OH 45050.

Vestal Manufacturing, South Main, Sweetwater, TN 37874.

(2) (3) Coast to Coast Advertising, 1500 North Dale Mabry, Tampa, FL 33607.

(4) (5) Dixie Building Supplies, Inc., 1500 North Dale Mabry, Tampa, FL 33607.

(6) First Brentwood Corp., 12001 San Vicente Boulevard, Los Angeles, CA 90049.

The Georgia Marble Co., 2575 Cumberland Parkway, NW, Atlanta, GA 30339.

Subsidiaries of Georgia Marble:

JIMCO Stone Centers, Inc., 2575 Cumberland Parkway, NW, Atlanta, GA 30339.

Georgia Marble Setting Co.; 2575 Cumberland Parkway, NW, Atlanta, GA 30339.
Stone & Industrial Supply Co., Tate, GA 30177.
Divisions of Georgia Marble:
Alabama Calcium Products Division, Gantt's Quarry, Sylacauga, AL 35150.
Consolidated Quarries, Highway 124 North, Lithonia, GA 30058.
Georgia Calcium Products, Highway 53 East, Marble Hill, GA 30177.
Memorial & Cemetery Products Division, Highway 5, Tate, GA 30177.
Nelson Structural Division, Highway 5, Nelson, GA 30151.
Whitestone Division, Highway 5, Whitestone, GA 30186.
Other Sudsidiaries and Divisions of Jim Walter Corp:
(8) Jim Walter Homes, Inc., 1500 North Dale Mabry, Tampa, FL 33607.
(9) Jim Walter International Sales, 1500 North Dale Mabry, Tampa, FL 33607.
(10) Jim Walter Papers, Inc., 5402 West First St., Jacksonville, FL 32205.
Subsidiaries of Jim Walter Papers:
Graham Paper Co., 5402 West First St., Jacksonville, FL 32205.
Mackie Paper Co., 100 N. Marshall St., Milwaukee, WI 53201.
Divisions of Jim Walter Papers:
Converted Paper Co., 5406 West First St., Jacksonville, FL 32205.
Marquette Paper, 1311 Maybrook Drive, Maywood, IL 60153.
(11) Jim Walter Resources, Inc., 3300 First Avenue North, Birmingham, AL 35202.
Subsidiary of Jim Walter Resources: Far East Fastener Co., 1500 North Dale Mabry, Tampa, FL 33607.
Division of Jim Walter Resources: Southeastern Bolt & Screw, 1037 16th Avenue West, Birmingham, AL 35201.
(12) Mid-State Homes, Inc., 1500 North Dale Mabry, Tampa, FL 33607.
(13) Shore Oil Corp., 1500 North Dale Mabry, Tampa, FL 33607.
(14) United States Pipe and Foundry Co., 3300 First Avenue, North, Birmingham, AL 35202.
Divisions of U.S. Pipe & Foundry:
Concrete Pipe Division, 14041 East Live Oak, Baldwin Park, CA 91706.
Industrial Products, East Pearl St., Burlington, NJ 08016.
Pipe Division, 3300 First Avenue North, Birmingham, AL 35202.
Southern Precision, 1500 Georgia Road, Birmingham, AL 35210.
(15) Walter Land Co., 1500 North Dale Mabry, Tampa, FL 33607.
(16) Wedlo, Inc., 3200 Second Avenue, North, Birmingham, AL 35222.
Subsidiary of Wedlo, Inc.: Brodnax Jewelry Co., 3200 Second Avenue, North, Birmingham, AL 35222.
Division of Wedlo, Inc.: Everwed Wholesale Division, 3200 Second Avenue, North, Birmingham, AL 35222.
Lorch Retail Division, 3200 Second Avenue, North, Birmingham, AL 35222.
Perfect Jewelry Polishers Division, 130 W. 130th St., New York, NY 10017.
(17) Insul-Coustic Corp., Jernee Mill Road, Sayreville, NJ.

III

A. Parent corporation and address of principal office:

The Great Atlantic & Pacific Tea Co., Inc., 2 Paragon Drive, Montvale, N.J. 07645.

B. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(1) Compass Foods, Inc., 2 Paragon Drive, Montvale, N.J. 07645.
(2) The Great Atlantic & Pacific Company of Canada, 5559 Dundas St. W., Islington, Ontario.
(3) The Great Atlantic & Pacific Company of Vermont, Inc., 2 Paragon Drive, Montvale, N.J. 07645.
(4) Kwik Save Inc., 2 Paragon Drive, Montvale, N.J. 07645.
(5) LoLo Discount Stores, Inc., 2 Paragon Drive, Montvale, N.J. 07645.
(6) Plus Discount Foods, Inc., 2 Paragon Drive, Montvale, N.J. 07645.
(7) Super Market Service Corp., 2 Paragon Drive, Montvale, N.J. 07645.

IV

A. Parent corporation and address of principal office:

Trans Union Corp., 90 Half Day Road, Lincolnshire, Illinois 60015.

B. Wholly-owned subsidiaries which may participate in the operations, and addresses of their respective principal offices:

(1) Ecodyne Corp., 90 Half Day Road, Lincolnshire, Illinois 60015.
(2) The Getz Corp., 640 Sacramento Street, San Francisco, California 94111.
(3) Getz Bros. & Co., Inc., 640 Sacramento Street, San Francisco, California 94111.
(4) MilBrands, Inc., 31 Lake Street, Stamford, New York 12167.
(5) Tucor Services, Inc., 640 Sacramento Street, San Francisco, California 94111.
(6) Rochester Instrument Systems, Inc., 255 North Union Street, Rochester, New York 14605.
(7) Solidstate Controls, Inc., 875 Dearborn Drive, Columbus, Ohio 43085.
(8) Trans Union Financial Corp., 1164 Triton Drive, Foster City, California 94404.
(9) Leasametric, Inc., 1164 Triton Drive, Foster City, California 94404.
(10) Trans Union Leasing Corp., 111 West Jackson Boulevard, Chicago, Illinois 60604.
(11) Union Tank Car Co., 111 West Jackson Boulevard, Chicago, Illinois 60604.
(12) Lithcote Co., 111 West Jackson Boulevard, Chicago, Illinois 60604.
(13) Speno Rail Services, Inc., 1140 Ivanhoe Road, Cleveland, Ohio 44110.
(14) Trans Union Fastener Corp., 90 Half Day Road, Lincolnshire, Illinois 60015.

Agatha L. Mergenovich,
Secretary.

[FR Doc 80-21489 Filed 7-17-80; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Office of Justice Assistance Research and Statistics

Law Enforcement Assistance Administration

Cancellation of Corrections Standards Implementation Grant Program

AGENCIES: Office of Justice Assistance, Research & Statistics (OJARS) and the Law Enforcement Assistance Administration (LEAA), U.S. Department of Justice.
ACTION: Notice of grant programs cancellation.

SUMMARY: The Office of Justice Assistance, Research and Statistics (OJARS) and the Law Enforcement Assistance Administration (LEAA); of the U.S. Department of Justice are hereby cancelling a Discretionary Grant Program entitled, "Corrections Standards Implementation Program" which was announced in the Federal Register on February 15, 1980. This program is being cancelled due to budget reductions within the LEAA discretionary grant program. No concept papers were received under the Corrections Standards Implementation Program by April 30, 1980. Applications should not be sent to LEAA under this program as funding is no longer available for the stated purposes of the program as announced under the February 15, 1980 Federal Register.

Henry S. Dogin,
Director, Office of Justice Assistance Research and Statistics.

Homer F. Broome, Jr.,
Administrator, Law Enforcement Assistance Administration.

[FR Doc. 80-21627 Filed 7-17-80; 8:45 am]
BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program; New Extended Benefit Period in the State of Mississippi

This notice announces the beginning of a new Extended Benefit Period in the State of Mississippi, effective on July 13, 1980.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment

Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State or the nation, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(e) of the Act, the Mississippi unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines, in accordance with 20 CFR 615.12(e), that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment under the State unemployment compensation law equalled or exceeded the State trigger rate. 20 CFR 615.12(b) or (c). The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "on" Indicator

The head of the employment security agency of the State of Mississippi has determined, in accordance with the State law and 20 CFR 615.12(e), that the rate of insured unemployment in the State for the period consisting of the week ending on June 28, 1980, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rate, so that for that week there was an "on" indicator in that State.

Therefore, an Extended Benefit Period commenced in that State with the week beginning on July 13, 1980.

Information for Claimants

The duration of Extended Benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to Extended Benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to Extended Benefits in the State of Mississippi, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State Employment Office of the Mississippi Employment Security Commission in their locality.

Signed at Washington, D.C., on July 15, 1980.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 80-21544 Filed 7-17-80; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-80-53-M]

Baldwin Contracting Co., Inc. d.b.a. Butte Creek Rock Co.; Petition for Modification of Application of Mandatory Safety Standard

Baldwin Contracting Company, Inc. d.b.a. Butte Creek Rock Company, Ninth and Yuba Streets, Marysville, California 95901, has filed a petition to modify the application of 30 CFR 56.4-27 (fire extinguishers) to its:

(a) Hallwood Plant located in Yuba County, California;

(b) Doyle Plant located in Lassen County, California;

(c) Buttes Pit located in Sutter County, California;

(d) Chico Plant and Pentz Pit located in Butte County, California;

(e) Stoney Creek Plant located in Glenn County, California;

(f) Chester Plant and Sloat Pit located in Plumas County, California.

The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. This standard requires that fire extinguishers be provided on all self-propelled mobile equipment.

2. Petitioner operates a sand, gravel, and crushed stone mine.

3. Petitioner states that this standard is useless as applied to outside diesel powered equipment because this machinery virtually never catches fire, and even if it did a portable fire extinguisher would be useless in combatting it.

4. Petitioner states the standard poses potential danger to an equipment operator who, in case of fire, might vainly attempt to fight it and thereby sustain injury.

5. Petitioner states that enforcement of the above standard is useless and diminishes miner safety.

Request for Comments

Persons interested in this petition may furnish written comments on or before August 18, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 10, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-21546 Filed 7-17-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-54-M]

Cargill Inc.; Petition for Modification of Application of Mandatory Safety Standard

Cargill Incorporated, Box 339, Patterson, Louisiana 70392 has filed a petition to modify the application of 30 CFR 57.21-28 (gassy mines—ventilation) to its Belle Isle Mine located in St. Mary Parish, Louisiana, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petitioner is developing a new level off two shaft extensions in a domal salt mine. The mine was classified gassy in June 1979.

2. As an alternative to application of 30 CFR 57.21-28, the petitioner proposes to use as many as four small (50-75 hp) non-permissible booster fans to provide isolated intake air circuits through rigid vent ducts for stationary processing equipment, electrical load centers, and a maintenance shop area. The latter would be located immediately adjacent to an intake air shaft.

3. The non-permissible booster fans would be contained within a steel bulkhead in intake air. In the event of multiple surface main fan failures, the booster fans would be deenergized automatically.

4. A stationary continuous recording methane monitoring system would warn competent personnel both visually and audibly if 0.25 percent methane is detected. If 0.50 percent methane is detected, the monitor will deenergize the mine electrical feed system.

5. The petitioner states that the alternative method will achieve the same result as 30 CFR 57.21–28 and will at all times guarantee miners no less than the same measure of protection afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before August 18, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 9, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-21647 Filed 7-17-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-68-M]

Ozark Lead Co.; Petition for Modification of Application of Mandatory Safety Standard

Ozark Lead Company, Rural Branch, Sweetwater, Missouri 63680, has filed a petition to modify the application of 30 CFR 57.4–61A (fire prevention and control) to its Frank R. Milliken Mine and Mill in Reynolds County, Missouri. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95–164.

The substance of the petition follows:

1. The standard requires the installation of ventilation doors at or near shaft stations of intake shafts and other designated escapeway shafts.

2. Petitioner's mine is open stope, room and pillar; it doesn't use timber for ground support; it is non-gassy and the mined material will not burn.

3. Petitioner states that ventilation doors would diminish miner safety because:

(a) Deliberate restrictions of ventilation flow with ventilation doors could cause smoke or gas to back into the mine rather than exhaust to the surface;

(b) Deliberate restrictions of smoke and gas flow could lead to lethal concentrations in unpredictable locations;

(c) Ventilation doors that are remotely controlled lead to unpredictable conditions in the mine during a fire and could confuse miners trying to escape the mine during such a fire.

4. For the above reasons, petitioner requests a modification of the standard in its entirety.

Request for Comments

Persons interested in this petition may furnish written comments on or before August 18, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 9, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-21648 Filed 7-17-80; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Federal Advisory Council on Occupational Safety and Health; Meeting

Notice is hereby given that the Federal Advisory Council on Occupational Safety and Health, established under Section 4(a) of Executive Order 11807 of September 28, 1974 (39 FR 35559), Occupational Safety and Health Programs for Federal Employees, will meet on August 5, starting at 9:30 a.m. in Room N5437 ABCD of the Frances Perkins Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. The meeting will be open to the public.

The agenda provides for:

I. Call to Order.
II. Approval of Minutes of May 6, 1980 Meeting.
III. Announcements.
IV. Status Report on Part 1960.
V. Report by Interagency Committee on Employee Health and Safety.
VI. Report by Interagency Task Group on Federal Employee Medical Records..
VII. Committee Activities:
A. Standing Committee on Occupational Noise.
B. Standing Committee on Field Federal Safety and Health Councils.

The Council welcomes written data, views or comments concerning safety and health programs for Federal employees, including comments on the agenda items. All such submissions received by close of business August 1, 1980, will be provided to the members of the meeting.

The Council will consider oral presentations relating to agenda items. Persons wishing to orally address the Council at the meeting should submit a written request to be heard by close of business August 1, 1980. The request must include the name and address of the person wishing to appear, the capacity in which appearance will be made, a short summary of the intended presentation and an estimate of the amount of time needed.

All communications regarding this Advisory Council should be addressed to Ms. Annie Asensio, Executive Director, FACOSH, Department of Labor, OSHA, Bicentennial Building, 600 E Street, N.W., Suite 500, Washington, D.C. 20210, telephone (202) 376–3007.

Signed at Washington, D.C. this 11th day of July, 1980.

Eula Bingham,

Assistant Secretary.

[FR Doc. 80-21645 Filed 7-17-80; 8:45 am]

BILLING CODE 4510-26-M

Office of the Secretary

[TA-W-7671]

A.M.S., Inc., Gardiner, Maine; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 21, 1980 in response to a worker petition received on March 17, 1980 which was filed on behalf of workers at A.M.S., Incorporated, Gardiner, Maine. The workers produced men's dress shoes.

All workers of A.M.S., Incorporated (then known as Bostonian Shoe Company), Gardiner, Maine separated on or after November 9, 1976 were certified eligible to apply for adjustment assistance benefits on March 20, 1978 (TA–W–2630). The Gardiner, Maine plant of A.M.S., Incorporated shut down at the end of January 1980. Limited staff were retained on the company's payroll to handle the phasing-out activities connected with the plant shutdown. Two workers will be laid off after the previous certification expired on March 20, 1980. Since all workers of A.M.S., Incorporated, Gardiner, Maine are covered under the previous certification, a new investigation would serve no purpose. Therefore, it is recommended that this investigation be terminated.

Signed at Washington, D.C. this 10th day of July 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-21653 Filed 7-17-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7820]

Acme Leather Sportswear, Elizabeth, N.J.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 28, 1980, in response to a worker petition received on April 23, 1980, which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing suede and leather sportswear and outerwear at Acme Leather Sportswear, Elizabeth, New Jersey.

In a previous determination (TA-W-4451) issued on February 27, 1979, and terminating on February 26, 1981, all workers at the Elizabeth, New Jersey, facility of Acme Leather Sportswear are presently eligible to apply for adjustment assistance under the existing determination. Consequently, this investigation has been terminated.

Signed at Washington, D.C. this 3rd day of July 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-21654 Filed 7-17-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9186]

General Motors Corp., AC Spark Plug Division—Milwaukee Operations, Oak Creek, Wis.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 7, 1980, in response to a worker petition received on June 23, 1980, which was filed on behalf of workers at the AC Spark Plug Division—Milwaukee Operations, Oak Creek, Wisconsin, of General Motors Corporation.

On June 9, 1980, a petition was filed on behalf of the same group of workers (TA-W-8610).

Since the identical group of workers is the subject of the ongoing investigation TA-W-8610, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 11th day of July 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-21655 Filed 7-17-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8732]

Inmont Corp., Ecorse, Mich., Warehouse; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 16, 1980, in response to a worker petition received on June 3, 1980, which was filed by the United Auto Workers on behalf of workers and former workers of the Ecorse, Michigan, warehouse of Inmont Corporation.

In a letter, the petitioner requested withdrawal of the petition. On the basis of this request, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 11th day of July 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-21656 Filed 7-17-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8933; TA-W-8989]

Ronson Corp., Woodbridge, N.J.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974 investigations were instituted on June 23, 1980 (TA-W-8933), and June 30, 1980 (TA-W-8989), in response to worker petitions which were filed on behalf of workers at Ronson Corporation, Woodbridge, New Jersey. The workers produce butane lighters.

On June 16, 1980, an investigation was initiated in response to a worker petition filed by the United Automobile, Aerospace and Agricultural Implement Workers of America on behalf of workers producing butane lighters at Ronson Corporation, Woodbridge, New Jersey (TA-W-8790).

Since the identical group of workers is the subject of the ongoing investigation TA-W-8790, investigations for TA-W-8933 and TA-W-8989 have been terminated.

Signed at Washington, D.C., 9th day of July 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-21657 Filed 7-17-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8934]

Tag-A-Long Handbags and Accessories, Inc., East Haven, Conn.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 23, 1980, in response to a petition received on June 16, 1980, which was filed on behalf of workers at Tag-A-Long Handbags and Accessories, Incorporated, East Haven, Connecticut. The workers produce vinyl handbags.

The petitioning group of workers in this case was included in a determination (TA-W-3782) issued on August 31, 1978, which certified as eligible to apply for adjustment assistance all workers of Tag-A-Long Handbags and Accessories, Incorporated, East Haven, Connecticut, and New York, New York. Since all workers separated, totally or partially, from Tag-A-Long Handbags, Inc., on or after October 29, 1977 (impact date of the certification), and before August 31, 1980 (expiration date of the certification), are covered by an existing certification, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 9th day of July 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-21658 Filed 7-17-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8289]

Timex Components, Inc., Somerset, N.J.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 27, 1980, in response to a worker petition received on May 19, 1980, which was filed on behalf of workers at Timex Components, Incorporated, Somerset, New Jersey. The workers produce liquid crystal displays for watches. Timex Components is a wholly-owned subsidiary of Timex Corporation.

On September 19, 1979, workers at Timex Components, Incorporated, were denied eligibility to apply for adjustment assistance (TA-W-5731). The petition alleged that Timex was closing its liquid crystal display plant in Somerset, New Jersey, and that a Timex subsidiary will continue to produce the displays in Singapore. The investigation revealed that all watch displays produced by Timex Components, Incorporated, Somerset, New Jersey, were exported.

Sales declines are accounted for by decreases in export sales.

On May 27, 1980, the Department instituted another investigation on behalf of workers at Timex Components, Incorporated (TA–W–8289). The petition alleges that customers of Timex have increased purchases of imported watches and decreased purchases from Timex. Only imports of articles like or directly competitive with the products produced by Timex Components, Incorporated, Somerset, New Jersey, which in this case are liquid crystal displays, can be considered in determining import injury to workers of Timex Components.

Timex Components, Incorporated, Somerset, New Jersey, ceased all production operations in early July 1979. The Department's earlier investigation (TA–W–5731) was conducted in July and August 1979, after the closing of the plant.

Since an investigation has already been conducted pursuant to the facts and statements presented in the current petition (TA–W–8289) and since the current petition presents no additional information pursuant to the previous determination (TA–W–5731) that would change that determination, another investigation would serve no purpose. Therefore, this investigation has been terminated.

Signed at Washington, D.C., this 11th day of July 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–21659 Filed 7–17–80; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–8704]

V. J. Products Co., Roseville, Mich.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 16, 1980, in response to a worker petition received on June 3, 1980, which was filed on behalf of workers at V. J. Products Company, Roseville, Michigan. The workers produce automotive fasteners.

The petitioners requested withdrawal of the petition in a letter dated July 2, 1980. On the basis of this request, continuing the investigation would serve no purpose. Consequently the investigation has been terminated.

Signed at Washington, D.C., this 10th day of July 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–21660 Filed 7–17–80; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–5137T, 5138T, 5139T, 5140T, 5140AT, 5140BT]

Mining Division, Vecellio and Grogan, Inc., Beckley, W. Va.; Amended Certification of Eligibility To Apply for Worker Adjustment Assistance

In the matter of Whitby Strip Mine, Raleigh County, West Virginia (TA–W–5137); Whitby Auger Mine, Raleigh County, West Virginia (TA–W–5138); Sullivan #1 Mine, Raleigh County, West Virginia (TA–W–5139); Sullivan #2 Mine, Raleigh County, West Virginia (TA–W–5140); Mining Division Office, Beckley, West Virginia (TA–W–5140A); and Mining Division Field Office, Stoco, West Virginia (TA–W–5140B).

In accordance with Section 223(d) of the Trade Act of 1974, the Department of Labor herein presents the results of TA–W–5137T, 5138T, 5139T, 5140T, 5140AT, 5140BT: investigation regarding termination of certification of eligibility to apply for worker adjustment assistance as prescribed in Section 223(d) of the Act.

On May 31, 1979, workers engaged in employment related to the production of metallurgical coal at Vecellio and Gorgan's Whitby Strip mine, Whitby Auger mine, Sullivan #1 and #2 mines, the mining division office at Beckley, West Virginia and the mining division field office at Stoco, West Virginia, were certified as eligible to apply for trade adjustment assistance. The Notice of Certification was published in the Federal Register on June 8, 1979 (44 FR 33182).

The investigation regarding termination of certifiction was initiated on May 22, 1980, to determine whether the group of workers specified above continue to meet the group eligibility requirements of Section 222 of the Act. The Notice of Investigation was published in the Federal Register on May 30, 1980 (45 FR 36565). No public hearings were requested and none were held.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

Whenever, it becomes evident that any of the criteria are no longer met, the certification as issued may be revised to include a termination date. The termination date would apply only with respect to total or partial separtions occurring after this date as specified in the amended certification. The investigation reveals that, without regard to whether any of the other criteria have been met, the following criterion is no longer being met with respect to workers at Vecellio and Grogan's Whitby Strip Mine, Raleigh County, West Virginia; Whitby Auger Mine, Raleigh County, West Virginia; Sullivan #2 Mine, Raleigh County, West Virginia, the Mining Division Field Office at Stoco, West Virginia; Sullivan #1 mine, Raleigh County, West Virginia and the mining division office at Beckley, West Virginia:

that increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

Evidence developed during the termination investigation showed that all of the coal from the above mentioned mines was shipped to the export market. Therefore, imports of metallurgical coal or coke could have no bearing on sales, production or employment at the two Whitby mines, the two Sullivan mines, and their associated mining division field offices.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that total or partial separations of workers engaged in the production of metallurgical coal at Vecellio and Grogan's Whitby Strip Mine, Whitby Auger Mine, Sullivan #1 and #2 mines, the mining division field office at Stoco, West Virginia, and the mining division office of Vecellio and Grogan, Inc., Beckley, West Virginia are no longer attributable to the conditions specified in Section 222 of the Trade Act of 1974. In accordance with Section 223(d) of the Act, I hereby amend the certification of May 31, 1979, to read as follows:

"All workers of the Whitby Strip Mine, the Whitby Auger Mine, the Sullivan #1 and #2 mines, all of Raleigh County, West Virginia, the Mining Division Field Office at Stoco, West Virginia, and the Mining Division Office at Beckley, West Virginia, and Vecellio and Grogan, Inc., who became totally or partially separated from employment on or after March 28, 1978 and before July 15, 1980, are eligible to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Workers separated on or after July 15, 1980, are denied eligibility to apply for adjustment assistance."

Signed at Washington, D.C., this 7th day of July 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-21661 Filed 7-17-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8757]

Whittaker Steel Corp., Steel Strip Division, Detroit, Mich.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 19, 1980, in response to a worker petition received on May 2, 1980, which was filed on behalf of workers and former workers of the Whittaker Steel Corporation, Steel Strip Division, Detroit, Michigan.

On May 28, 1980, a petition was filed on behalf of the same group of workers (TA-W-8757).

Since the identical group of workers is the subject of the ongoing investigation (TA-W-8124) a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 11th day of July 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-21662 Filed 7-17-80; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 28, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 28, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 30th day of June 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Jackson China, Inc. (workers)	Falls Creek, Pa	6/13/80	6/3/80	TA-W-8,987	Produce institutional china.
Kay Screen Printing (workers)	Detroit, Mich	6/13/80	6/9/80	TA-W-8,988	Auto decals and striping.
Romsom Corp (workers)	Bridgewater, N.J	6/11/80	6/6/80	TA-W-8,989	Manufacture and process flame products.
Sunshine Shake Co. (workers)	Forks, Wash	6/11/80	6/29/80	TA-W-8,990	Produce cedar shakes.
Wagner Electric Corp. (workers)	Sparta, Tenn	6/11/80	6/6/80	TA-W-8,991	Incandescent automotive lamps used in Alaska.
TD Shea Manufacturing Inc. (workers)	Detroit, Mich	6/11/80	6/6/80	TA-W-8,992	Plastic automobile parts.
Warren Molder Plastics (workers)	Salem, Ohio	6/11/80	6/4/80	TA-W-8,993	Plastic parts for auto industry.
Waupaca Foundry (workers)	Marinetti, Wis	5/28/80	5/22/80	TA-W-8,994	Auto brake drum, disc brakes, wheel hubs.
Waupaca Foundry	Waupaca, Wis	5/28/80	5/22/80	TA-W-8,995	Auto brake drum, disc brakes, wheel hubs.
Anaconda Brass Buffalo (USWA)	Buffalo, N.Y	6/18/80	6/14/80	TA-W-8,996	Copper brass strips for radiators and air conditioners.
Ardee Sportswear, Inc. (workers)	Los Angeles, Calif	6/18/80	6/16/80	TA-W-8,997	Cotton knit tops, sweater tops, pants, shorts, shirts.
A. O. Smith, Corp (workers)	Granite City, Ill	6/18/80	6/15/80	TA-W-8,998	Automobile frames for General Motors cars.
Carron & Company (workers)	Inkster, Mich	6/18/80	6/16/80	TA-W-8,999	Automotive prototypes.
Fab-Tec. Inc. (workers)	Warren, Mich	6/5/80	5/25/80	TA-W-9,000	Torque converter parts.
Federal Mogul Corp. (UAW)	St. Johns, Mich	6/18/80	6/9/80	TA-W-9,001	Parts for automatic and manual transmissions engines, steering gears, air conditioning, suspension systems.
Kohler Machine & Manufacturer Corp. (IAMAW).	Lockport, N.Y	6/18/80	5/19/80	TA-W-9,002	Produce multiple screw machines of automotive parts.
Orbit Tool and Die Corporation (Int'l Union of Tool, Die & Mold Makers).	Springfield, N.J	6/18/80	6/11/80	TA-W-9,003	Plastic injection molds.
Rubinstein Jewelry, MFG. Co. Inc. (company).	New York, N.Y	6/18/80	6/16/80	TA-W-9,004	14K chains and bracelets—sterling silver chains and bracelets.
Consolidation Coal Co. (UMWA)	Washington, Pa	6/10/80	6/4/80	TA-W-9,005	Coal for steel, coal for steam.
Die Cost Corp. (UAW)	Jackson, Mich	6/11/80	6/3/80	TA-W-9,006	Aluminum and zinc die castings.
Emerson Electric Co. (workers)	Rogers, Ark	6/6/80	6/2/80	TA-W-9,007	Electric motors.
Emerson Electric Co. (workers)	Kennett, Miss	6/6/80	6/2/80	TA-W-9,008	Electric motors.
Emerson Electric Co. (workers)	Paragould, Ark	6/6/80	6/2/80	TA-W-9,009	Electric motors.
Foreman Manufacturing Co. (ILGWU)	Collings Lakes, N.J	6/16/80	5/28/80	TA-W-9,010	Ladies rain coats.
Harmar Coal Co. (UMWA)	Pittsburgh, Pa	6/10/80	6/4/80	TA-W-9,011	Steel for coal.
Plasta Fiber (workers)	Detroit, Mich	6/13/80	5/16/80	TA-W-9,012	Insulation for coal.
TRW, Inc. (workers)	Sterling Heights, Mich	6/5/80	5/30/80	TA-W-9,013	Automotive parts.
Davis and Furber Machine Co. (workers)	No. Anover, Mass	6/3/80	5/30/80	TA-W-9,014	Textile machinery for carpet yarn and non-woven industries.
Jadco Builders, Inc., (company)	Vassar, Mich	6/3/80	5/27/80	TA-W-9,015	Building homes.
Manchester Plastics, Inc. (company)	Manchester, Mich	6/19/80	6/6/80	TA-W-9,016	Automotive interior trim parts.
Russell, Burdsall & Ward Corp. (company)	Mentor, Ohio	6/19/80	6/24/80	TA-W-9,017	Headed and extruded industrial fasteners.
Miss Capri (ILGWU)	New York, N.Y	6/17/80	6/12/80	TA-W-9,018	Women blouses.
NL Industries, Inc. (OCAW)	South Amboy, N.J	6/17/80	6/12/80	TA-W-9,019	Titanium dioxide.
Pyron Corporation (company)	Niagra Falls, N.Y	6/19/80	6/16/80	TA-W-9,020	Ferrous metal powders.
Schwitzer Corp. (USWA)	Indianapolis, Ind	6/19/80	5/20/80	TA-W-9,021	Turbo chargers, vibrator dampers, fan drives.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Smith Machine Inc. (company)	Eigthy Four, Pa	6/19/80	6/16/80	TA-W-9,022	Mills & grinds, tool steel plates.
B.F. Goodrich Co. (OCAWIU)	Port Neches, Tex	6/19/80	6/16/80	TA-W-9,023	Synthetic rubber.
Burlington Dress Co. (ILGWU)	Burlington, N.J	6/19/80	5/28/80	TA-W-9,024	Ladies' dresses and sportswear.
Carbon City Products, Co. (IUE-AFL-CIO)	St. Mary's, Pa	6/19/80	6/17/80	TA-W-9,025	Automotive.
G.M. Tech Center (workers)	Warren, Mich	6/19/80	6/15/80	TA-W-9,026	Cars, trucks.
Hilton Coat & Suit Co. (ILGWU)	Burlington, N.J	6/19/80	5/28/80	TA-W-9,027	Ladies' sportswear.
McQuay-Norris, Inc. (workers)	Washington, Miss	6/19/80	6/16/80	TA-W-9,028	Piston ring castings, automatic transmission sealing ring, axle shims, and cover plates.
Molded Materials Co. (IUE-AFL-CIO)	Ridgway, Pa	6/19/80	6/17/80	TA-W-9,029	Automotive and trucking.
Monte English Baublits sawmill (workers)	Port Angeles, Wash	6/19/80	6/16/80	TA-W-9,030	Rough cut cedar boards.
National Molded Products (IUE-AFL-CIO)	St. Mary's, Pa	6/19/80	6/17/80	TA-W-9,031	Automotive.
S & A Coal Co. Inc. (UMWA)	Princeton, W. Va	6/19/80	6/16/80	TA-W-9,032	Coal mining.
TD Shea Manufacturing, Inc. (workers)	Kendallville, Ind	6/11/80	6/6/80	TA-W-9,033	Plastic automobile parts.
TD Shea Manufacturing, Inc. (workers)	Pontiac, Mich	6/11/80	6/6/80	TA-W-9,034	Plastic automobile parts.
Allied Chemical Corp., Auto Parts Division (workers).	Mt. Clemens, Mich	6/16/80	5/30/80	TA-W-9,035	Auto seat belt restraints.
Herman Segall Co., Inc. (workers)	Philadelphia, Pa	6/3/80	5/29/80	TA-W-9,036	Women's blouses.
Hamill Manufacturing Co. (workers)	Romeo, Mich	5/20/80	5/15/80	TA-W-9,037	Seat belts for cars.
Hamill Manufacturing Co. (workers)	Imaly City, Mich	5/20/80	5/15/80	TA-W-9,038	Seat belts for cars.
Janesville Products (ACTWU)	Norwalk, Ohio	5/20/80	5/15/80	TA-W-9,039	Fibrous pads for autos.
Collins & Aikman Corp. (workers)	Faith, N.C	5/20/80	5/13/80	TA-W-9,040	Interior carpet trim.
Eaton Corp., Engine Component Div. (workers).	Battle Creek, Mich	5/20/80	5/15/80	TA-W-9,041	Engine component values.
Amherst Coal Co. (workers)	Lundale, W. Va	6/2/80	5/30/80	TA-W-9,042	Coal mining.
Bossert Mfg. Corp. (IAMAW)	Utica, N.Y	6/13/80	6/6/80	TA-W-9,043	Metal stamping and assembler.
Brown Corporation of Ionia (UFWA)	Ionia, Mich	6/13/80	6/5/80	TA-W-9,044	Metal stamping plant and automotive parts.
Greencastle Man. Co. (workers)	Greencastle, Ind	6/13/80	6/9/80	TA-W-9,045	Metal stampings.
Grinnell Screw Products Co., Inc. (workers)	St. Clair Shores, Mich	6/13/80	6/9/80	TA-W-9,046	Automobile brake parts.
Phillip Fisher Inc. (ILGWA)	Williamson, N.J	6/6/80	5/28/80	TA-W-9,047	Dresses.
Photo & Repro Div., GAF Corporation (Int'l Chemical Workers).	Binghamton, N.Y	6/17/80	6/6/80	TA-W-9,048	Photographic and reprographic film and paper related products.
Robertshaw Controls, Co. (USWA)	Knoxville, Tenn	6/16/80	6/11/80	TA-W-9,049	Thermostats for autos.
Allen Group, Inc. (workers)	Orrville, Ohio	6/17/80	6/12/80	TA-W-9,050	Fiberglass parts.
Bethlehem Steel Corp. (USWA)	Sparrows Point, Md	6/11/80	6/5/80	TA-W-9,051	Steelmaking.
Fitzsimons Steel Co. (Federation of Cold Drawn Steel Workers).	Youngstown, Ohio	6/17/80	6/11/80	TA-W-9,052	Cold drawn steel bars and special shapes.
New England Sportswear, Inc. (AETWU)	Peabody, Mass	6/18/80	6/4/80	TA-W-9,053	Leather garments.
Reichert Stamping Co.	Toledo, Ohio	6/18/80	6/11/80	TA-W-9,054	Automotive stamping equipment.
Rockwell International Inc. (USWA)	Logansport Ind	6/18/80	6/16/80	TA-W-9,055	Suspension springs, mechanical springs.
Tenaglia Construction, Inc. (workers)	Leonard, Mich	6/18/80	6/11/80	TA-W-9,056	New Homes, rough carpenter work.
Tungsten Contact Manufacturing Company Inc. (company).	North Bergen, N.J	6/18/80	6/16/80	TA-W-9,057	Automotive ignition replacement parts.
Winner Circle Fashions, Inc.	New York, N.Y	6/18/80	6/12/80	TA-W-9,058	Leather and suede jackets and coats.
Broderick & Bascam Rope Co, (IAMAW)	Peoria, Il	6/13/80	6/9/80	TA-W-9,059	Wire rope cable.
Hall Heating & Air Conditioning, Inc. (workers)	Burton, Mich	6/13/80	6/9/80	TA-W-9,060	Heating and air cond.
Hellertown Mfg. Co. (UAW)	Hellerton, Pa	6/13/80	6/10/80	TA-W-9,061	Spark plugs.
Lori Coat Co. (ILGWA)	Philadelphia, Pa	6/13/80	6/9/80	TA-W-9,062	Coats for women.
McCreary, Tire & Rubber, Co. (URW)	Indiana, Pa	6/13/80	6/5/80	TA-W-9,063	Tires.
McCreary Industrial Products, Co. (URW)	Indiana, Pa	6/13/80	6/5/80	TA-W-9,064	Rubber products.
Modern Lady Inc. (ILGWU)	Philadelphia, Pa	6/13/80	6/9/80	TA-W-9,065	Coats for women.
Rea Magnet Wire Co., Inc. (workers)	Lafayette, Ind	6/13/80	6/5/80	TA-W-9,066	Copper and aluminum magnet wire.
U.S. Steel Corp. (USWA)	Canton, Ohio	6/3/80	5/28/80	TA-W-9,067	Iron rolls.
Ski-Land Woolen Mill (company)	Clinton, Maine	6/23/80	6/17/80	TA-W-9,068	Woolen goods manufacturer.
Ohio Rubber Co., Hose Div. (company)	Elkhart, Ind	6/23/80	6/20/80	TA-W-9,069	Flexible spiral wire reinforced rubber ducting.
Master Finish Co. (company)	Grand Rapids, Mich	6/23/80	6/18/80	TA-W-9,070	Metal finishing and electroplating of zinc die casting.
Lyntex Mfg., Inc. (company)	Ubly, Mich	6/23/80	6/19/80	TA-W-9,071	Building of map pocket assemblies vent glass straps and button retainers.
Gemini Plastics, Inc. (company)	Ubly, Mich	6/23/80	6/19/80	TA-W-9,072	Plastic profile extruded parts for auto companies.
Lemar Products, Inc. (company)	Cleveland, Ohio	6/23/80	6/19/80	TA-W-9,073	Assemblies and supplies headlight aiming screw assemblies.
Firestone Textiles Company (company)	Gastonia, N.C	6/23/80	6/19/80	TA-W-9,074	Tire cord fabric.
Firestone Textiles Company (company)	Binnettsville, S.C	6/23/80	6/19/80	TA-W-9,075	Tire cord fabric.
Roll Coater (workers)	Greenfield, Ind	5/20/80	5/14/80	TA-W-9,076	Exhaust systems.
Houdaille Inc., Lubriquip Div. (USWA)	McKee Rocks, Pa	6/13/80	6/5/80	TA-W-9,077	Automatic lubricating systems.
Lanson Rainwear (ILGWU)	Oceanside, N.Y	5/22/80	5/20/80	TA-W-9,078	Rainwear for women.
Marble King, Inc. (workers)	Paden City, W. Va	6/13/80	6/10/80	TA-W-9,079	Marbles.
Metal Specialties Inc. (workers)	Warren, Mich	6/13/80	6/4/80	TA-W-9,080	Automotive stampings.
M & S Manufacturing Co. (workers)	Morenci, Mich	6/13/80	5/30/80	TA-W-9,081	Component parts.
M.T. Shaw Co. (UFCW)	Coldwater, Mich	6/13/80	6/9/80	TA-W-9,082	Men's shoes.
Muskegon Piston Ring Co. Inc. (UAW)	Muskegon, Mich	6/13/80	6/13/80	TA-W-9,083	Cast iron and steel piston rings.
Parker & Sons Inc. (workers)	Copalis Beach, Wash	6/13/80	6/3/80	TA-W-9,084	Cedar shakes.
Plasta Fiber, Inc. (workers)	Ithaca, Mich	6/13/80	6/4/80	TA-W-9,085	Soft trim sunvisors.
Alox Corporation (USWA)	Buffalo, N.Y	6/18/80	6/13/80	TA-W-9,086	Undercoating for cars, rust preventives and oil additives.
Dana Corp. (UAW)	Richmond, Ind	6/3/80	5/30/80	TA-W-9,087	Cylinder liners.
Maxon Corp. (Ironworkers Shopmen)	St. Paul, Minn	6/13/80	6/4/80	TA-W-9,088	Fabricating structural steel.
Otis Elevator (IUE)	Harrison, N.J	6/13/80	6/10/80	TA-W-9,089	Elevator cabs.
Pullman Car Works Engineering (USWA)	Chicago, Ill	6/3/80	5/20/80	TA-W-9,090	Commuter cars, rail passenger cars.
Pullman Car Works I (USWA)	Chicago, Ill	6/3/80	5/20/80	TA-W-9,091	Commuter cars, rail passenger cars.
Pullman Car Works II (USWA)	Hammond, Ind	6/3/80	5/20/80	TA-W-9,092	Commuter cars, rail passenger cars.
Rainfair Inc. (ILGWU)	Racine, Wis	6/13/80	6/2/80	TA-W-9,093	Topcoats, rubber rainwear.
St. Paul Structural Steel Co. (Ironworkers Shopmen).	St. Paul, Minn	6/13/80	6/4/80	TA-W-9,094	Fabricating structural steel.
Glen of Michigan (ILGWA)	Mainster, Mich	6/16/80	6/6/80	TA-W-9,095	Ladies sportswear.
H. Margolia, Co. (International Leather Goods, Plastic & Novelty Workers Union).	Fitchburg, Mich	6/17/80	6/12/80	TA-W-9,096	Leather handbags.
Hendrickson Tandem Corp. (National Federation of Independent Workers).	Kendallville, Ind	6/17/80	6/12/80	TA-W-9,097	Suspension units for semi-tractors.
Hendrickson Tanden Corp. (Nat'l Fed. of Ind. Workers Union).	Butler, Ind	6/17/80	6/12/80	TA-W-9,098	Suspension units for semi-tractors.
Keeler Brass Co. (workers)	Lake Odessa, Mich	5/20/80	5/15/80	TA-W-9,099	Interior and exterior hardware for auto industry.
Keeler Brass Co. (workers)	Grand Rapids, Mich	5/20/80	5/15/80	TA-W-9,100	Interior and exterior hardware for auto industry.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Kelly Spring Field Tire Co. (URW)	Tyler, Tex	6/16/80	6/10/80	TA-W-9,101	Passenger tires.
Schmelzer Corp. (UAW)	Durand, Mich	6/16/80	6/10/80	TA-W-9,102	Vacuum brakes for cargo.
The Standard Slag Company (USWA)	Mingo Junction, Ohio	5/28/80	5/23/80	TA-W-9,103	Process slag from blast furnace.
Fast Machine Inc. (workers)	Grand Rapids, Mich	6/16/80	6/10/80	TA-W-9,104	Automotive fasteners, rivet and other small parts.
P.M. Tool & Manufacturing Co. (workers)	Dearborn, Mich	6/16/80	6/10/80	TA-W-9,105	Hangers for exhaust pipes, armrest brackets.
Rexnord Inc. (USWA)	Milwaukee, Wis	6/16/80	6/12/80	TA-W-9,106	Mills, hoists, railway right-of-way maintenance.
Shawano Mfg. Co., Inc. (workers)	Shawano, Wis	6/13/80	6/6/80	TA-W-9,107	Sportswear for girls.
Sheller-Globe Corp. (URW)	Quincy, Ill	6/16/80	6/10/80	TA-W-9,108	Padded instrument panels.
Sheller-Globe Corp. (URW)	Keokuk, Iowa	6/16/80	6/10/80	TA-W-9,109	Rubber products for automotive industry.
Sheller-Globe Corp. (International Chemical Workers).	Montpelier, Ind	6/16/80	6/9/80	TA-W-9,110	Gaskets, moldings, hoses for automotive industry.
Slab Fork Coal Co. (UMWA)	Alpoca, W. Va	6/13/80	6/3/80	TA-W-9,111	Coal.
Suburban Plumbing & Heating Inc. (workers)	Northville, Mich	6/16/80	6/9/80	TA-W-9,112	Install plumbing in new homes.
Western Electric Co., Inc. (IBEW)	Indianapolis, Ind	6/16/80	6/11/80	TA-W-9,113	Telephones and equipment for Bell System.
Master-Cast Co. (workers)	Howell, Mich	6/17/80	6/9/80	TA-W-9,114	Aluminum and zinc die casters.
M. Hoffman & Co., Inc. (workers)	So. Hackensack, N.J	6/16/80	6/13/80	TA-W-9,115	Warehousing.
Morganstern Pants Co. (workers)	Fredericksburg, Va	6/17/80	6/14/80	TA-W-9,116	Men's trousers.
McDonald Cedar Products (workers)	Milton, Wash	6/13/80	3/21/80	TA-W-9,117	Cedar shakes.
N.L. Chemical Sayreville (ACTWU)	South Amboy, N.J	6/16/80	6/12/80	TA-W-9,118	Titanium pigment.
Sommerville Meat Co. (UFCW)	Boston, Mass	6/13/80	6/6/80	TA-W-9,119	Cutting and converting meat into wholesale cuts.
U.S. Steel Corp. (UMWA)	Gary, W. Va	6/10/80	6/2/80	TA-W-9,120	Metallurgical coal.
U.S. Tool & Cutter Co. (workers)	Franklin, Mich	6/16/80	6/4/80	TA-W-9,121	Indexible grooving insert.
Wagner Electric Corp. (IBEW)	Boyertown, Pa	6/13/80	6/11/80	TA-W-9,122	Beam lamps for autos and trucks.
Cape Industries (UAW)	Warren, Mich	5/21/80	5/28/80	TA-W-9,123	Auto gears.
Dearborn Stamping Co. (UAW)	Dearborn, Mich	5/20/80	5/14/80	TA-W-9,124	Stamping.
Fisherman & Tobin, Inc. (workers)	Philadelphia, Pa	5/20/80	5/14/80	TA-W-9,125	Boys' clothing.
Orcomatic Inc. (company)	Stratford, Conn	6/23/80	6/13/80	TA-W-9,126	Precision molded rubber products for automobiles.
Orcomatic Inc. (company)	Norwich, Conn	6/23/80	6/13/80	TA-W-9,127	Precision molded rubber products for automobiles.
Unique Leather Inc. (workers)	New York, N.Y	5/20/80	5/14/80	TA-W-9,128	Leather goods.
Van Wormer Industries (UAW)	St. Clair Shores, Mich	5/20/80	5/16/80	TA-W-9,129	Automotive stampings for GM and Ford.
Wagner Electric Corp. (IBEW)	Weatherly, Pa	5/20/80	5/12/80	TA-W-9,130	Automotive parts.
Wagner Electric Corp. (IBEW)	Parsippany, N.J	5/20/80	5/12/80	TA-W-9,131	Automotive parts.
Brunswick Corp. (workers)	Marion, Va	6/3/80	5/27/80	TA-W-9,132	Pin ball machines.
Bethlehem Steel Corp. (workers)	Chesterton, Ind	5/21/80	5/13/80	TA-W-9,133	Steel product.
Bethlehem Steel Corp. (USWA)	Seattle, Wash	6/11/80	5/30/80	TA-W-9,134	Steel product.
The Catamore Co. (workers)	East Providence, R.I	6/17/80	5/30/80	TA-W-9,135	Precious metal and costume jewelry.
Metallurgical Inc. (UAW)	Minneapolis, Minn	6/17/80	6/12/80	TA-W-9,136	Heat treat steel.
Power Metal Products, Inc. (IUE)	St. Mary's Pa	6/19/80	6/17/80	TA-W-9,137	Automotive.
Roll Coater, Inc. (workers)	Kingsbury, Ind	6/19/80	6/17/80	TA-W-9,138	Clean and coated sheet metal.
Walworth Value Casting (workers)	Columbus, Ohio	6/16/80	6/12/80	TA-W-9,139	Steel valve casting.
York Merit Products, Inc. (UAW)	Ellicottville, N.Y	6/3/80	5/21/80	TA-W-9,140	Wheel spindles and axles.
Crimtex, Inc. (workers)	San German, P.R	6/16/80	6/10/80	TA-W-9,141	Plastic cord for sweaters.
Federal Forge (UAW)	Lansing, Mich	5/20/80	5/2/80	TA-W-9,142	Steering mechanisms.
M. Hoffman & Co., Inc. (workers)	S. Hackensack, N.J	6/23/80	6/15/80	TA-W-9,143	Warehouse for jeans and shirts produced by Hoffman, Inc.
Mohawk Liquor Co	Detroit, Mich	5/13/80	5/5/80	TA-W-9,144	Liquor.
Molloy Manufacturing Co. (UAW)	Fraser, Mich	5/13/80	5/9/80	TA-W-9,145	Metal fabrication for automobiles.
Motor Wheel Corp. (UAW)	Ypsilanti, Mich	6/23/80	6/19/80	TA-W-9,146	Brake drums and disc brakes.
PPG Industries, Inc. (workers)	Meadville, Pa	6/23/80	6/18/80	TA-W-9,147	Glass for automobiles.
Sheller-Globe Corp. (UAW)	Norwalk, Ohio	6/23/80	6/11/80	TA-W-9,148	Transportation equipment.
Striar Textile Mill (workers)	Orono, Maine	6/13/80	6/6/80	TA-W-9,149	Processing and blend of textile material.
Tryion Corp. (workers)	Traverse City, Mich	6/13/80	6/10/80	TA-W-9,150	Automotive parts.
Island Coal Creek Co. gund Prep. Plant (UMWA).	Paintsville, Ky	6/23/80	6/18/80	TA-W-9,151	Coal mining.
Island Coal Creek Co., Big Creek #2 (UMWA)	Paintsville, Ky	6/23/80	6/18/80	TA-W-9,152	Coal mining.
Island Coal Creek Co., Big Creek #1 (UMWA)	Paintsville, Ky	6/23/80	6/18/80	TA-W-9,153	Coal mining.
Milford Rivet & Machine Co. (UAW)	Elyria, Ohio	6/18/80	6/13/80	TA-W-9,154	Rivets used for fasteners.
Needlecraft Corp. of America (UTWA)	Grafton, Wis	6/23/80	6/20/80	TA-W-9,155	Afghan knitting kits.
Needlecraft Corp. of America (UTWA)	Hustisford, Wis	6/23/80	6/20/80	TA-W-9,156	Afghan knitting kits.
Needlecraft Corp. of America (UTWA)	Ladysmith, Wis	6/23/80	6/20/80	TA-W-9,157	Afghan knitting kits.
U.S. Industries Inc. (UAW)	Toledo, Ohio	6/13/80	6/9/80	TA-W-9,158	Coil steel.
U.S. Industries Inc. (UAW)	Detroit, Mich	6/13/80	6/9/80	TA-W-9,159	Coil steel.

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Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address below, not later than July 28, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 28, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 14th day of July 1980.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
General Motors Corp., Chevrolet Motor Div. Central Office (company).	Warren, Mich	6/10/80	6/3/80	TA-W-9,246	Administration, engineering.
General Motors Corp., GM Assembly Div. Central Office (company).	Westland, Mich	6/10/80	6/3/80	TA-W-9,247	Administration, engineering.
General Motors Corp., GM Assembly Div. Central Office (company).	Warren, Mich	6/10/80	6/3/80	TA-W-9,248	Administration, engineering, Warehousing.
General Motors Corp., Saginaw Steering Gear Division (company).	Athens, Ala	6/10/80	6/3/80	TA-W-9,249	Power steering pumps and gears.
General Motors Corp., Central Office (company).	New York, N.Y	6/10/80	6/3/80	TA-W-9,250	Administration, engineering, research, testing.
General Motors Corp., Central Office (company).	Detroit, Mich	6/10/80	6/3/80	TA-W-9,251	Administration, engineering, research, testing.
General Motors Corp., Delco-Remy Div. (company).	Anaheim, Calif	6/10/80	6/3/80	TA-W-9,252	Batteries.
General Motors Corp., Chevrolet Motor Div. commercial Acct. Div. (company).	Warren, Mich	6/10/80	6/3/80	TA-W-9,253	Administration.
Leslie Metal Arts Co., Inc. Plant No. 1 Stamping Div. (company).	Kentwood, Mich	6/30/80	6/25/80	TA-W-9,254	Automotive parts.
Leslie Metal Arts Co., Inc. Plant No. 2 Plating Division (company).	Grand Rapids, Mich	6/30/80	6/25/80	TA-W-9,255	Automotive parts.
Leslie Metal Arts Co., Inc. Plant No. 3 Plating Division (company).	Middleville, Mich	6/30/80	6/25/80	TA-W-9,256	Automotive parts.
Leslie Metal Arts Co., Inc. Plant No. 4 Hardware Division (company).	Kentwood, Mich	6/30/80	6/25/80	TA-W-9,257	Automotive parts.
Leslie Metal Arts Co., Inc. Plant No. 5 Die Cast & Plastics Div. (company).	Kentwood, Mich	6/30/80	6/25/80	TA-W-9,258	Automotive parts.
Fort Industry Corp., Division (UAW)	Toledo, Ohio	6/6/80	6/3/80	TA-W-9,259	Manufacture of spark plugs.
Hoover Universal, Inc. (company)	Mt. Vernon, Ohio	6/27/80	6/24/80	TA-W-9,260	Chrome-plated plastics, including wheel covers.
Peters Manufacturing (workers)	Kawkawlin, Mich	6/17/80	6/3/80	TA-W-9,261	Power steering pulleys, air pump pulleys, Harmonic, Balances, and oil seals.
Portec Incorporated Rail car Div. Paragon Operations (Ironworkers).	Novi, Mich	6/17/80	6/12/80	TA-W-9,262	Fabrication of racks and carriers for autos.
Hoover Universal, Inc.	Malbern, Ark	6/27/80	6/16/80	TA-W-9,263	Brass Bath Waste parts.
Sepa Incorporated (workers)	Saxton, Pa	6/17/80	6/12/80	TA-W-9,264	Cut upholstery leather.
Northern Mining Equipment Co. (workers)	Hibbing, Minn	6/17/80	6/10/80	TA-W-9,265	Selling and repairing iron ore mining equipment.
Dana Spicer, Clutch Division (UAW)	Auburn, Ind	6/17/80	6/13/80	TA-W-9,266	Stamping for trucks.
Frezzolini Electronic (company)	Hawthrone, N.J	6/30/80	6/23/80	TA-W-9,267	16mm professional motion picture camera.
Gladney-Chatman Chemicals Inc. (company)	St. Louis, Mo	6/30/80	6/19/80	TA-W-9,268	Manufacturing and sells liquid specialty chemical products for industrial uses.
Kalkstein Silk Mills (ACTWU)	Paterson, N.J	5/30/80	5/27/80	TA-W-9,269	Silk tie and upholstery fabrics.
LOF Plastics, Woodall Div. (workers)	Monroe, Mich	6/17/80	6/13/80	TA-W-9,270	Interior headliners, rear shelf, sun visors, luggage trim panels and cowl trim.
McCulloch Mite-e-lite (company)	Wellsville, N.Y	6/30/80	6/26/80	TA-W-9,271	Power generators from 1,200 to 5,000 watts.
Steve Baker & Associates Inc. (company)	St. Louis, Mo	6/30/80	6/20/80	TA-W-9,272	Mfg. representatives for auto market.
Timex Corporation (IAM-AW)	Waterbury, conn	6/16/80	6/10/80	TA-W-9,273	Mechanical and quartz watches.
Bronco Sportswear	New York, N.Y	6/17/80	6/12/80	TA-W-9,274	Sports dresses, garment wear, leather sewing machine.
Hatzel & Buehler Electrical Construction (company).	Oak Park, Mich	6/27/80	6/20/80	TA-W-9,275	Electric construction of test lab facility at Ford.
J. W. Phillips Dist. Co., Inc. (company)	Seattle, Wash	6/17/80	6/12/80	TA-W-9,276	Home entertainment products.
Monroe Auto Equipment Company (company)	Cozad, Neb	6/24/80	6/3/80	TA-W-9,277	Company manufacturing ride control products, shock absorbers.
Ohio & Western Pa Dock Company (ILA)	Cleveland, Hio	7/1/80	6/24/80	TA-W-9,278	Iron ore.
White Builders (workers)	Utica, Mich	6/17/80	6/13/80	TA-W-9,279	Constructs homes.
Sewell Coal Company (workers)	Nettie, W. Va	6/17/80	6/8/80	TA-W-9,280	Coking coal.
Snowden, Inc. (ILGWU)	Oscela, Iowa	6/17/80	6/13/80	TA-W-9,281	Manufacturing of ladies garment.
Charles Rabin & Company, Inc. (ACTWU)	Frackville, Pa	6/23/80	6/18/80	TA-W-9,282	Menswear.
Leggett & Platt, Wire Division (workers)	Carthage, Mo	6/12/80	5/30/80	TA-W-9,283	Steel wire.
Pep Industries (workers)	Houston, Miss	6/13/80	6/4/80	TA-W-9,284	Auto electrical wiring harnesses.
Pep Industries (workers)	Nashville, Tenn	6/13/80	6/4/80	TA-W-9,285	Auto electrical wiring harnesses.
Pep Industries (workers)	Ripley, Miss	6/13/80	6/4/80	TA-W-9,286	Auto electrical wiring harnesses.
RCA Corp, Distributor and Special Products Div. (company).	Deptford, N.J	6/25/80	6/16/80	TA-W-9,287	Electronic tubes, sales and marketing.
Schegel Tennessee, Inc. (ACTWU)	Maryville, Tenn	6/23/80	6/18/80	TA-W-9,288	Weather stripping for automobiles.
The Timms Spring Company (company)	Elyria, Ohio	7/2/80	6/30/80	TA-W-9,289	Automotive component parts.
Troytown Shirt Corp. (ACTWU)	Cohoes, N.Y	6/23/80	6/18/80	TA-W-9,290	Men's formal shirts and ladies blouses.
Automatic Die Casting Specialty, Inc. (workers).	Detroit, Mich	6/13/80	6/10/80	TA-W-9,291	Die casting parts for imports.
Bessemer and Lake Erie R. R. (IAMAW)	Greenville, Pa	6/16/80	6/11/80	TA-W-9,292	U. S. S. railroad.
C. J. Langenfelder and Son, Inc. (workers)	Morrisville, Pa	6/24/80	6/19/80	TA-W-9,293	Service contractor for U.S. steel.
Cal Custom/Hawk, a Division of Orion Industries, Inc. (workers).	Carson, Calif	6/23/80	6/19/80	TA-W-9,294	Diagnostic instruments for testing and tuning autos.
Central Manufacturing Inc. (workers)	Parker City, Ind	6/12/80	5/29/80	TA-W-9,295	Metal stampings for autos.
Delta Systems, Inc./Cash Register Sales Inc. (workers).	Minneapolis, Minn	6/23/80	6/20/80	TA-W-9,296	Cash registers.
Davis & Furber Machine Co. (company)	Charlotte,	6/3/80	5/30/80	TA-W-9,297	Textile machinery.
Howell Industries, Inc. (company)	Marysville, Mich	6/30/80 6/26/80		TA-W-9,298	Stampings and assemblies.
A. C. Dellovade, Inc. (workers)	McMurray, Pa	7/1/80	6/24/80	TA-W-9,299	Sheet metal contractors.
American Sunroof Corp., West Coast (workers).	Paramount, Calif	6/24/80	6/4/80	TA-W-9,300	Install sunroofs.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Dexter Mills (workers)	Lisbon Falls, Maine	7/1/80	6/26/80	TA-W-9,301	Drapery fabrics.
Enterprise Machine & Development Corp. (workers).	New Castle, Del	7/1/80	6/18/80	TA-W-9,302	Machinery for air texturing synthetics.
G and L Manufacturing Co., Inc. (company)	Boston, Mass	7/1/80	6/27/80	TA-W-9,303	Ladies cotton house dresses.
Goodyear Tire & Rubber Company (URW)	Topeka, Kans	7/1/80	6/25/80	TA-W-9,304	Tires.
Jones & Laughlin Steel Corp., Raw Materials Division (workers).	McMurray, Pa	6/24/80	6/16/80	TA-W-9,305	Mining coal.
Kelsey-Hayes Company (workers)	Sedalia, Mo	7/1/80	6/25/80	TA-W-9,306	Automotive wheels.
Active Industries, Inc. (AIWA)	Elkton, Mich	6/24/80	6/20/80	TA-W-9,307	Automotive metal stampings and assemblies.
Bessemer & Lake Erie Railroad Co. (workers)	Greenville, Pa	7/3/80	6/29/80	TA-W-9,308	Car repair—railroad built and repair freight.
Chrysler Corp., Chrysler Outboard (company)	Hartford, Wis	7/2/80	6/27/80	TA-W-9,309	Inboard industrial engines and outboard engines.
Chrysler Corp., Amplex Harper Plant (company).	Detroit, Mich	7/2/80	6/27/80	TA-W-9,310	Powered metal components.
Chrysler Corp., Amplex Div. Office (company).	Detroit, Mich	7/2/80	6/27/80	TA-W-9,311	Administrative support.
Chrysler Corp., Marine & Industrial Div. (company).	Detroit, Mich	7/2/80	6/27/80	TA-W-9,312	Administrative and other support functions.
Mattatuck Mfg. Co. (UAW)	Waterbury, Conn	6/20/80	6/18/80	TA-W-9,313	Flexible and solid linkages for autos.
Texas—U.S. Chemical Co. (OCAWIU)	Port Neches, Tex	6/20/80	6/17/80	TA-W-9,314	Synthetic rubber.
American Motors Corp. (company)	Milwaukee, Wis	7/3/80	6/30/80	TA-W-9,315	Stampings for automobiles.
American Motors Corp. (company)	Kenosha, Wis	7/3/80	6/30/80	TA-W-9,316	Assemble passenger cars.
Blankenship Shake Co. (company)	Forks, Wash	7/3/80	6/29/80	TA-W-9,317	Shakes.
Simpson Industries, Edgerton Manufacturing Div. (IAM).	Edgerton, Ohio	7/8/80	7/1/80	TA-W-9,318	Automotive parts.
General Steel Industries, Inc., National Roll Div. (USWA).	Avonmore, Pa	7/3/80	6/30/80	TA-W-9,319	Steel and iron rolls used in rolling mills.
Tecumseh Products Co., Jim Robbins Co. Div. (workers).	Walled Lake, Mich	7/8/80	6/30/80	TA-W-9,320	Plastic interior parts for autos.
Tecumseh Products Co., Jim Robbins Co. Div. (workers).	Troy, Mich	7/3/80	6/30/80	TA-W-9,321	Plastic interior parts for the "Big 3."
Swepco Tube Corp. (IUE)	Clifton, N.J	7/3/80	6/23/80	TA-W-9,322	Stainless steel welded pipe and tubing.
Moco, Inc. (workers)	Alexandria, Ind	6/30/80	6/25/80	TA-W-9,323	Rebuild starters.
National Garment (ILGWU)	Hammonton, N.J	6/30/80	6/16/80	TA-W-9,324	Ladies outerwear.
RPI, Inc. (UAW)	Lexington, Mich	6/30/80	6/24/80	TA-W-9,325	Trim line, moldings, auto trim, stainless steel.
Bundy Tubing Corp., Stainless Tube Div. (UAW).	Mt. Clemens, Mich	6/30/80	6/25/80	TA-W-9,326	Stainless steel tubing.
Colt Industries, Sterling Div. Operation (company).	Cleveland, Ohio	6/30/80	6/25/80	TA-W-9,327	Thread rolling dies—industrial fasteners.
Tiger Babe Sportswear (ILGWU)	Newark, N.J	6/30/80	6/26/80	TA-W-9,328	Sportswear.
V.J.G. Apparel, Inc. (ILGWU)	Brooklyn, N.Y	6/30/80	6/26/80	TA-W-9,329	Slacks.
Val-U-Tool & Gage Co. (workers)	Westland, Mich	6/30/80	6/25/80	TA-W-9,330	Precision gages for autos.
Weldmation, Inc. (workers)	Madison Heights, Mich	6/30/80	6/20/80	TA-W-9,331	Machine tools—make the tools.
Armco, Inc. (Butler Armco Independent Union).	Butler, Pa	7/3/80	6/27/80	TA-W-9,332	Specialty steels.
Bolta Products, Division of General Motors (workers).	Lawrence, Mass	5/20/80	5/14/80	TA-W-9,333	Vinyl coated products.
D'Alonzo Lancaster, Inc. (ACTWU)	Philadelphia, Pa	7/1/80	6/26/80	TA-W-9,334	Men's custom tailored clothing.
Febio, Inc. (workers)	Livonia, Mich	6/30/80	6/19/80	TA-W-9,335	Package Ford auto parts.
Jones Motor Co., Inc. (workers)	Spring City, Pa	6/30/80	6/25/80	TA-W-9,336	Trucking transport service.
Lear Siegler, Inc., Metal Products Div. (workers).	Detroit, Mich	6/30/80	6/12/80	TA-W-9,337	Metal fabricated parts.
Pro Group, Inc. (AIWA)	Chattanooga, Tenn	6/17/80	6/12/80	TA-W-9,338	Golf club heads.
Simplicity Engineering Co. (UAW)	Durand, Mich	6/17/80	6/11/80	TA-W-9,339	Processing equipment.
Clark Equipment Co. (AIW)	Jackson, Mich	6/13/80	6/9/80	TA-W-9,340	Transmissions.
Eastview Chrysler Plymouth Company (workers).	Victor, N.Y	5/22/80	5/19/80	TA-W-9,341	Fabricating for autos.
Firestone Textiles Co. (workers)	Bowling Green, Ky	6/18/80	6/14/80	TA-W-9,342	Tire cord fabric.
Ford Motor Company (company)	Dearborn, Mich	7/3/80	7/1/80	TA-W-9,343	Support service.
Goodyear Tire & Rubber Company (workers)	Cedartown, Ga	6/27/80	6/24/80	TA-W-9,344	Tire cord, makes fiber for Goodyear.
General Motors Corp., Frigidaire Div. (workers).	Dayton, Ohio	6/27/80	6/24/80	TA-W-9,345	Refrigerators, dishwashers and other appliances.
Primax Inc. (workers)	Cleveland, Ohio	7/2/80	6/30/80	TA-W-9,346	Auto parts.
Van Dyke Fabrications Inc. (workers)	Inkay City, Mich	6/20/80	6/17/80	TA-W-9,347	Produced transportation and handling machinery for the auto factories.
Annette Sportswear Corp. (ILGWU)	Bronx, N.Y	7/3/80	7/1/80	TA-W-9,348	Children's dresses.
Carmine Sportswear Inc. (ILGWU)	Staten Island, N.Y	6/30/80	6/8/80	TA-W-9,349	Children's coats and jackets.
Fram Corp. (Fram Mason Ind. Union)	Greenville, Ohio	6/30/80	6/24/80	TA-W-9,350	Auto oil filters.
Graphic Metals, Inc. (UAW)	Bay City, Mich	6/30/80	6/4/80	TA-W-9,351	Metal stampings.
Loubella Extendables, Inc. (ILGWU)	Los Angeles, Calif	6/26/80	6/20/80	TA-W-9,352	Women's sportswears.
Mariette Homes Inc. (workers)	Mariette, Mich	6/30/80	6/26/80	TA-W-9,353	Houses and mobile homes.
Marsail Manufacturing Corp. (ILGWU)	Brooklyn, N.Y	6/30/80	6/25/80	TA-W-9,354	Sew and press women's garments.
U.S. Steel Corporation (workers)	Duluth, Minn	6/16/80	6/9/80	TA-W-9,355	Transportation of iron ore and taconite pellets for U.S. steel plants.
Chemin Corp. (Teamsters)	Dearborn, Mich	7/7/80	6/30/80	TA-W-9,356	Auto accessory parts.
Contour Plastics, Inc. (IAMAW)	Bloomington Minn	7/7/80	6/30/80	TA-W-9,357	Custom injection molded plastic parts.
Great Lakes Sugar & Warehousing, Inc. (workers).	Detroit, Mich	6/18/80	6/16/80	TA-W-9,358	Store and ship Uniroyal tires.
Jo-Nan Enterprises, Inc. (ILGWU)	New York, N.Y	6/30/80	6/25/80	TA-W-9,359	Women's skirts and blouses.
L & R Manufacturing Co. (company)	Kearny, N. J	7/3/80	6/27/80	TA-W-9,360	Ultrasonic and mechanical cleaning systems.
Le Beau Sportswear Corp. (ILGWU)	New York, N.Y	6/30/80	6/25/80	TA-W-9,361	Ladies slacks and skirts.
McClouth Steel Corp. (USWA/AFL/CIO)	Trenton, Mich	6/30/80	6/24/80	TA-W-9,362	Carbon steel.
McClouth Steel Corp. (USWA/AFL/CIO)	Gibraltar, Mich	6/30/80	6/24/80	TA-W-9,363	Carbon finishing.
McClouth Steel Corp. (USWA/AFL/CIO)	Detroit, Mich	6/30/80	6/24/80	TA-W-9,364	Stainless steel finishing.

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Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of negative determinations regarding eligibility to apply for worker adjustment assistance issued during the period July 7–11, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely.

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA–W–7484; AIE, Nashville, Tenn.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the United Steelworkers of America on behalf of workers at AIE, Nashville, Tennessee. The workers produce transformers and filterboards.

The investigation revealed that criterion (3) has not been met.

A Department survey of the customers of AIE revealed that none of the surveyed firms decreased purchases from AIE and increased purchases of imported transformers and filterboards.

Company imports of inductors (transformers and filters) decreased in 1979 compared to 1978 and decreased in the first quarter of 1980 compared to the same period in 1979.

The petitioners allege that the company is trying to open a plant in Haiti. The investigation revealed that no production at a Haitian facility has begun at the present time. However, production at any overseas facility for the company may create a situation in the future that may warrant coverage under the provisions of the Trade Act of 1974 if the transfer results in increased imports into the U.S. The petitioners are encouraged to file a request to reopen the investigation if imports from the overseas operation begin.

In this case, therefore, the certifying officer has determined that all workers of AIE, Nashville, Tennessee are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7750; Conally Ford, Inc., Madison, Tenn.

The investigation was initiated on April 28, 1980 in response to a petition which was filed on behalf of workers at Conally Ford, Inc., Madison, Tennessee. The workers at Conally Ford, Inc. are engaged in providing the service of selling, servicing, and repairing automobiles.

The investigation revealed that workers of Conally Ford, Inc. do not produce an article within the meaning of Section 222(3) of the Act. The Department of Labor has consistently determined that the performance of services does not constitute production of an article, as required by Section 222 of the Trade Act of 1974; and this determination has been upheld in the U.S. Court of Appeals. Therefore, workers of Conally Ford, Inc. may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Conally Ford, Inc. by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports. These conditions have not been met for workers of Conally Ford, Inc.

In this case, therefore, the certifying officer has determined that all workers of Conally Ford, Inc., Madison, Tennessee are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7694; BFB Production Molding Co.; Sterling Heights, Mich.

The investigation was initiated on April 28, 1980 in response to a petition which was filed on behalf of workers at BFB Production Molding Company, Sterling Heights, Michigan. The workers produce rear window molding.

The investigation revealed that criterion (3) has not been met.

The petitioner alleged that the importation of automobiles has affected the demand for rear window molding for automobiles. Automobiles cannot be considered to be like or directly competitive with rear window molding. Imports of rear window molding must be considered in determining import injury to workers producing rear window molding at BFB Production Molding Company.

A Departmental survey conducted with BFB's customers revealed that customers did not purchase imported rear window molding in 1978, 1979 or in the first two months of 1980.

In this case, therefore, the certifying officer has determined that all workers of BFB Production Molding Company, Sterling Heights, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7709; Darrington Shingle Co., Darrington, Wash.

The investigation was initiated on April 28, 1980 in response to a petition which was filed on behalf of workers at Darrington Shingle Company, Darrington, Washington. Workers at the Darrington mill produce shingles.

The investigation revealed that criterion (3) has not has met.

Darrington Shingle's sales of cedar shingles increased in 1979 compared with 1978. Average employment of production workers also increased in 1979 compared with 1978. In the first quarter of 1980, although sales and employment were higher than in the same quarter of 1979, the figures did decline when compared to sales and employment in the previous quarter.

The decline in sales and employment at the mill during the first quarter of 1980 coincided with a sharp downturn in domestic housing starts which began in

late 1979 and has continued through the first quarter of 1980. According to U.S. Department of Commerce statistics, the annual rate of housing starts in March 1980 was 1.04 million units, 44 percent below the rate of 1.87 million units reported for September 1979 when interest rates began increasing sharply. The annual rate of housing starts in March 1980 is 42 percent lower than in March 1979, and is the lowest rate in five years.

A Department of Labor survey of Darrington Shingle's customers revealed that the customers' overall demand for cedar shingles declined sharply during the first quarter of 1980 compared with the same period of 1979, coincident with the decline in home construction. Sources cited the sharp downturn in the home construction industry as the primary reason for the reduction in purchases of shingles.

In this case, therefore, the certifying officer has determined that all workers of Darrington Shingle Company, Darrington, Washington are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7406; Essex Group, Inc., Automative Products Division, Carey, Ohio

The investigation was initiated on March 24, 1980 in response to a petition which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers at the Carey, Ohio plant of the Automotive Products Division of Essex Group, Incorporated. Workers at the Carey, Ohio plant produced primarily water pumps, ignition kits and battery cables.

The investigation revealed that criterion (3) has not been met.

U.S. imports of automotive water pumps, the major product produced by the Carey, Ohio plant, declined absolutely and relative to domestic production during January–September 1979 compared to the same period in 1978. The ratio of imports to domestic production of water pumps amounted to less than 1.1 percent in January–September 1979. The quantity of U.S. exports of automotive water pumps significantly exceeded U.S. imports in 1977, 1978 and January–September 1979.

Major surveyed customers of the Carey, Ohio plant did not purchase imported battery cables in model year (MY) 1978, MY 1979 or MY 1980. Customers surveyed which increased purchases of imported wire harness assemblies (including ignition kits) in MY 1979 from MY 1978 also increased purchases from other domestic sources during the same period.

Imported cars cannot be considered to be like or directly competitive with automotive water pumps, battery cables and ignition kits. Imports of automotive water pumps, battery cables and wires harness assemblies (including ignition kits) must be considered in determining import injury to workers at the Carey, Ohio plant of the Automotive Products Division of Essex Group, Incorporated.

In this case, therefore, the certifying officer has determined that all workers of the Carey, Ohio plant of the Automotive Products Division of Essex Group, Incorporated are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7847; E. W. Ferry Screw Products, Inc., Brookpark, Ohio

The investigation was initiated on April 28, 1980 in response to a petition which was filed by the Independent Workers Association on behalf of workers at E. W. Ferry Screw Products, Incorporated, Brookpark, Ohio. The workers produce industrial fasteners.

The investigation revealed that criterion (3) has not been met.

U.S. imports of industrial fasteners, including bolts, nuts and screws competitive with the fasteners produced by E. W. Ferry Screw Products, Incorporated, decreased both absolutely and relative to domestic production in 1979 compared to 1978. U.S. imports decreased absolutely in the first quarter of 1980 compared to the first quarter of 1979.

Company sales and production of industrial fasteners increased in 1979 compared to 1978. Since employment of production workers decreased in the first quarter of 1980, a survey of E. W. Ferry's customers was conducted. None of the surveyed customers who decreased their purchases from E. W. Ferry in the first quarter of 1980 compared to the first quarter of 1979 reported increasing purchases of imported metal fasteners during the same period.

The survey further revealed that the respondents decreased their overall reliance on imported industrial fasteners in the first quarter of 1980.

In this case, therefore, the certifying officer has determined that all workers of E. W. Ferry Screw Products, Incorporated, Brookpark, Ohio are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7804; Hinchen Bros. Shake & Shingle, Inc., Forks, Wash.

The investigation was initiated on April 28, 1980 in response to a petition which was filed on behalf of workers at Hinchen Brothers Shake and Shingle, Inc., Forks, Washington. Workers at the Hinchen Brothers plant produce shakes and shingles.

The investigation revealed that criterion (3) has not been met.

The declines in Hinchen Brothers' sales and production of shakes and shingles were primarily attributable to a reduced demand for shakes and shingles caused by a downturn in housing starts. According to U.S. Department of Commerce statistics, new housing starts declined by about 14 percent in 1979 compared to 1978, and by 26 percent in the first quarter of 1980 compared to the same quarter of 1979.

A Department of Labor survey of Hinchen Brothers' customers revealed that the customers with reduced purchases of shakes and shingles from Hinchen Brothers in 1979 compared to 1978, and in the first quarter of 1980 compared to the same quarter of 1979, did not increase their purchases of imported shakes and shingles over the same periods.

In this case, therefore, the certifying officer has determined that all workers of Hinchen Brothers Shake and Shingle, Inc., Forks, Washington are denied eligibility to apply for adjustment assistance under section 223 of the Trade Act of 1974.

TA-W-7805; Kinzua Corp., Heppner, Oreg.

The investigation was initiated on April 28, 1980 in response to a petition which was filed by the International Woodworkers of America on behalf of workers at the plywood mill of Kinzua Corporation, Heppner, Oregon. The workers produced softwood plywood.

The investigation revealed that criterion (3) has not been met.

U.S. imports of softwood plywood competitive with softwood plywood produced at the plywood mill of Kinzua Corporation are negligible. The United States is the world's largest producer of softwood plywood. Few foreign nations have sufficient supplies of softwood to become major exporters of softwood plywood. Canada exports a significant volume of softwood plywood to Western Europe but virtually none to the U.S., mainly because of the 20 percent tariff the U.S. levies on softwood plywood imports that do not enter under the Generalized System of Preferences.

The closure of the plywood mill at Kinzua Corporation was caused by the

depletion of the firm's raw materials supply.

In this case, therefore, the certifying officer has determined that all workers of Kinzua Corporation, Heppner, Oregon are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7398; Marc Slade Chrysler Plymouth, Inc., Longwood, Fla.

The investigation was initiated on March 17, 1980 in response to a petition which was filed on behalf of workers at Marc Slade Chrysler Plymouth, Incorporated, Longwood, Florida. The workers at Marc Slade Chrysler Plymouth, Incorporated are engaged in selling, servicing, and repairing automobiles.

The investigation revealed that workers of Marc Slade Chrysler Plymouth, Incorporated do not produce an article within the meaning of Section 222(3) of the Act. The Department of Labor has consistently determined that the performance of services does not constitute production of an article, as required by Section 222 of the Trade Act of 1974; and this determination has been upheld in the U.S. Court of Appeals. Therefore, workers of Marc Slade Chrysler Plymouth, Incorporated may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Marc Slade Chrysler Plymouth, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports. These conditions have not been met for workers of Marc Slade Chrysler Plymouth, Incorporated.

In this case, therefore, the certifying officer has determined that all workers of Marc Slade Chrysler Plymouth, Incorporated, Longwood, Florida are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7379; Northland Chrysler Plymouth, Division of McInernery, Inc., Oak Park, Mich.

The investigation was initiated on March 17, 1980 in response to a petition which was filed on behalf of workers at Northland Chrysler Plymouth, a division of McInernery, Inc., Oak Park, Michigan. The workers at Northland Chrysler Plymouth are engaged in providing the service of selling, repairing and servicing automobiles.

The investigation revealed that workers of Northland Chrysler Plymouth do not produce an article within the meaning of Section 222(3) of the Act. The Department of Labor has consistently determined that the performance of services does not constitute production of an article, as required by Section 222 of the Trade Act of 1974; and this determination has been upheld in the U.S. Court of Appeals. Therefore, Northland Chrysler Plymouth workers may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Northland Chrysler Plymouth by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports. These conditions have not been met for workers of Northland Chrysler Plymouth.

In this case, therefore, the certifying officer has determined that all workers of Northland Chrysler Plymouth, division of McInernery, Inc., Oak Park, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7652; The Flying Tiger Line, Detroit Metro Airport, Romulus, Mich.

The investigation was initiated on April 21, 1980, in response to a petition which was filed on behalf of workers at The Flying Tiger Line, Detroit Metro Airport, Romulus, Michigan. The workers at The Flying Tiger Line are engaged in providing the service of transporting freight by air.

The investigation revealed that workers of The Flying Tiger Line do not produce an article within the meaning of Section 222(3) of the Act. The Department of Labor has consistently determined that the performance of services does not constitute production of an article, as required by Section 222 of the Trade Act of 1974, and this determination has been upheld in the U.S. Court of Appeals. Therefore, workers of The Flying Tiger Line may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to The Flying Tiger Line by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports. These conditions have not been met for workers of The Flying Tiger Line.

In this case, therefore, the certifying officer has determined that all workers of The Flying Tiger Line, Detroit Metro Airport, Romulus, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7645; White Star Trucking, Inc., Flint, Mich.

The investigation was initiated on April 21, 1980 in response to a petition which was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America on behalf of workers at White Star Trucking, Incorporated, Flint, Michigan. The workers at White Star Trucking, Incorporated are engaged in providing the service of transporting general commodities by truck.

The investigation revealed that workers of White Star Trucking, Incorporated do not produce an article within the meaning of Section 222(3) of the Act. The Department of Labor has consistently determined that the performance of services does not constitute production of an article, as required by Section 222 of the Trade Act of 1974; and this determination has been upheld in the U.S. Court of Appeals. Therefore, workers of White Star Trucking, Incorporated may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to White Star Trucking, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports. These conditions have not been met for workers of White Star Trucking, Incorporated.

In this case, therefore, the certifying officer has determined that all workers of White Star Trucking, Incorporated, Flint, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7528; Young American Clothing Co., Newark, N.J.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the International Ladies' Garment Workers' Union on behalf of workers at Young American Clothing Company, Newark, New Jersey. The company produces girls' raincoats.

The investigation revealed that criterion (3) has not been met.

Imports of women's, girls' and infants' raincoats decreased absolutely in the first quarter of 1980 compared to the first quarter of 1979.

A Department survey of the major customers of the manufacturer for whom Young American Clothing Company produces raincoats revealed that these customers did not decrease their purchases from the manufacturer and increase their purchases of imported girls' raincoats during the period under investigation.

In this case, therefore, the certifying officer has determined that all workers of Young American Clothing Company, Newark, New Jersey are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

I hereby certify that determinations were issued with respect to all of the aforementioned cases during the week of July 7–11, 1980.

Signed at Washington, D.C. this 14th day of July, 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-21651 Filed 7-17-80; 8:45 am]

BILLING CODE 4510-28-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for worker adjustment assistance issued during the period July 7–11, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles producted by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA–W–8214; General Plating Co., Detroit, Mich.

Investigation revealed that the workers do not produce an article as required for certificaton under Section 223 of the Act.

TA–W–7958; Willow Coat Corp., Hoboken, N.J.

The investigation revealed that sales by manufacturers for which the subject firm produced under contract did not decline.

TA–W–7408; Union Carbide, Sheffield, Ala.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7757; Crestwood Chrysler Corp.

Investigation revealed that criterion (1) has not been met.

TA–W–8275; Liberty Footwear, Inc., Bedford, Pa.

Investigation revealed that criterion (3) has not been met. Liberty Footwear produced men's dress shoes for approximately eighth months. The closure of the firm did not result from increased import competition.

TA–W–7816; Oxford Printing & Finishing, Oxford, N.C.

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of finished fabric did not increase as required for certification.

TA–W–7875; Professional Shoe, Ponce, P.R.

Investigation revealed that criterion (3) has not been met. Separations from the subject firm resulted from a transfer of production to another domestic facility.

TA–W–7558; Craig Byron Co., Fall River, Mass.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separatons at the firm.

TA–W–7474; Eltra Corp., Rose City, Mich.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7671; A.M.S., Inc., Gardiner, Maine

Investigation revealed that criterion (2) has not been met.

TA–W–7505; Jung Great Lakes Shoes, Oconto, Wis.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7763; Siegler Sales, Inc., Marlette, Mich.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7765; Barford Chevrolet Co., St. Louis, Mo.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7879; Irmil Dress, New York, N.Y.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7498; Americana Art & Glass, Sebring, Ohio

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7499; Queens China, Sebring, Ohio

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7499A; Americana Art China, Sebring, Ohio

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

Affirmative Determinations

In each of the following cases, it has been concluded that all of the criteria have been met, and certifications have been issued covering all workers totally or partially separated from employment on or after the designated dates.

TA-W-7617; Reitz Coal Co., City of Industry, Calif.

A certification was issued covering all workers of the firm separated on or after September 30, 1979 and before January 1, 1980.

I hereby certify that the aforementioned determinations were issued during the period July 7–11, 1980. Copies of these determinations are available for inspection in Room S-5314, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210 during normal working hours or will be mailed to persons who write to the above address.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc 80-21652 Filed 7-17-80; 8:45 am]
BILLING CODE 4510-28-M

Affirmative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of certifications of eligibility to apply for worker adjustment assistance issued during the period July 7–11, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

In the following cases it has been concluded that all of the criteria have been met.

TA-W-7886; Daniels Cedar Products, Inc., Aberdeen, Wash.

The investigation was initiated on April 28, 1980 in response to a petition which was filed on behalf of workers at Daniels Cedar Products, Incorporated. The workers produce cedar shakes and shingles.

U.S. imports of red cedar shakes, shingles, hips and ridges increased absolutely and relative to domestic production in 1978 compared with 1977 and in 1979 compared with 1978. Imports increased during the first quarter of 1980 compared with the same period of 1979.

A Department of Labor survey of Daniels Cedar Products' customers revealed that customers reduced purchases of cedar shakes and shingles from Daniels in 1979 compared with 1978, while increasing purchases of imported shakes and shingles over the same period. The customers reduced purchases of shakes and shingles from domestic sources during the first four months of 1980, while increasing purchases of imported shakes and shingles over the same period.

In this case, therefore, the certifying officer has determined that:

"All workers of Daniels Cedar Products, Incorporated, Aberdeen, Washington, who became totally or partially separated from employment on or after June 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

TA-W-7345; Keuffel & Esser Co., Cape May Court House, N.J.

The investigation was initiated on March 17, 1980 in response to a petition which was filed on behalf of workers producing engineering measuring tapes at the Cape May Court House, New Jersey plant of Keuffel & Esser Company.

U.S. imports of engineering measuring tapes competitive with those produced by Keuffel & Esser increased both absolutely and relative to domestic production in each year from 1976 through 1979.

Company production of engineering measuring tapes ceased in November 1979. In December 1979, the company started purchasing imported engineering measuring tapes to fulfill their customers requirements for this product.

In this case, therefore, the certifying officer has determined that:

"All workers of the Cape May Court House, New Jersey plant of Keuffel & Esser Company engaged in employment related to the production of engineering measuring tapes who became totally or partially separated from employment on or after February 15, 1979 and before April 1, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

TA-W-8002; Scheller Bros. Lumber Co., Olympia, Wash.

The investigation was initiated on May 19, 1980 in response to a petition which was filed on behalf of workers at Scheller Brothers Lumber Company, Olympia, Washington. The workers produce cedar lumber.

U.S. imports of cedar lumber increased absolutely and relative to domestic production in 1978 compared with 1977, and increased relative to domestic production in 1979 compared with 1978.

A Department of Labor survey of Scheller Brothers Lumber Company's customers revealed that customers reduced purchases of cedar lumber from Scheller Brothers Lumber Company during the first quarter of 1980 compared with the same period of 1979, while at the same time increasing purchases of imported cedar lumber.

In this case, therefore, the certifying officer has determined that:

"All workers of Scheller Brothers Lumber Company, Olympia, Washington who became totally or partially separated from employment on or after January 1, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

I hereby certify that determinations were issued with respect to all of the aforementioned cases during the week of July 7–11, 1980.

Signed at Washington, D.C. this 14th day of July 1980.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-21663 Filed 7-17-80; 8:45 am]
BILLING CODE 4510-28-M

MERIT SYSTEMS PROTECTION BOARD

Opportunity To File Amicus Brief on Issues Related to Disciplinary Actions Based on Off-Duty Misconduct

AGENCY: Merit Systems Protection Board.

ACTION: Notice of opportunity to file amicus brief in Board proceedings.

SUMMARY: The Board currently has before it several cases involving adverse actions taken by Federal agencies under 5 U.S.C. § 7513(a) against employees based on off-duty misconduct. In adjudicating these appeals, the Board expects to consider broad issues underlying them. For that reason, the Board hereby invites agencies, employee organizations and any other interested persons to submit briefs addressed to the following issues:

(i) Whether there are types or classes of off-duty crimes of which conviction alone establishes cause for disciplinary action against an employee, without distinct evidence of nexus between the criminal misconduct and the efficiency of the service, and, if so, the identity of such types or classes of crime and the criteria by which such types or classes of crime may reasonably and adequately be identified?

(ii) Whether a conviction of a crime is necessary before an agency can initiate an action based on criminal conduct, or whether it may do so on the basis of the employee's admitting to such misconduct or other evidence demonstrating the misconduct took place?

(iii) Whether a stricter standard of off-duty misconduct may properly be

required for certain employees or categories of employees based on factors such as the nature of the agency's mission, the position and responsibility of the employee, etc., and, if so, the nature of the evidentiary showing that should be required to establish the applicability of such stricter standard to the particular employee?

(iv) Whether a nexus between the off-duty misconduct and the employee's job performance (or the performance of others) must be proven by a preponderance of the evidence?

Briefs should contain a discussion of any relevant policy issues and regulatory and statutory provisions. The briefs should particularly address the applicable case law including the decisions of the courts in the following cases which may be considered pertinent to some or all of these issues: *Johnson* v. *U.S.*, No. 79–1154 (D.C. Cir. filed May 8, 1980); *Aiello* v. *City of Wilmington, Del.*, No. 79–1699 (3rd Cir. filed May 1, 1980); *Elliott* v. *Phillips, et al.*, No. 77–3544 (6th Cir. filed Dec. 27, 1979); *Turner* v. *Campbell*, 581 F.2d 547 (1978); *Phillips* v. *Bergland*, 586 F.2d 1007 (4th Cir. 1978); *Young* v. *Hampton, et al.*, 568 F.2d 1253 (7th Cir. 1977); *Gueory* v. *Hampton, et al.*, 510 F.2d 1222 (D.C. Cir. 1974); *Dennis* v. *Blount*, 497 F.2d 1305 (9th Cir. 1974); *Embrey* v. *Hampton*, 470 F.2d 146 (4th Cir. 1972); *Norton* v. *Macy*, 417 F.2d 1161 (D.C. Cir. 1969); *Jenkins* v. *Macy*, 357 F.2d 62 (8th Cir. 1966); *Grebosz* v. *U.S. Civil Service Comm.*, 472 F. Supp. 1081 (S.D. N.Y. 1979); *Yacovone* v. *Bailar*, 455 F. Supp. 287 (D.D.C. 1978); *Major* v. *Hampton*, 413 F. Supp. 66 (E.D. La. 1976); *Masino* v. *U.S.*, 589 F.2d 1048 (Ct. Cl. 1978); and *Schlegel* v. *U.S.*, 416 F.2d 1372 (Ct. Cl. 1969).

To aid in the preparation of such briefs, copies of initial decisions presenting such issues in cases currently pending review before the Board will be provided to participating agencies, organizations and persons upon request to the contact person designated below.

The amicus briefs will be considered if received in the Office of the Secretary of the Board on or before August 18, 1980. Such briefs should be captioned, "In Re Off-Duty Misconduct Cases," MSPB Docket No. Cons. 80–1. It is the intent of the Board to hold oral argument on this matter at a time to be established later.

ADDRESS: Office of the Secretary, Merit Systems Protection Board, Room 350, 1717 H Street, N.W., Washington, D.C. 20419, (202) 632–4525.

For the Board.
Ruth T. Prokop,
Chairwoman.
July 15, 1980.

[FR Doc 80–21771 Filed 7–17–80; 8:45 am]
BILLING CODE 6325–20–M

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Proposed New Routine Uses for an Existing System of Records

AGENCY: Office of Personnel Management.

ACTION: Notice; proposed new routine uses for an existing system of records.

SUMMARY: The purpose of this document is to propose two new routine uses for the Office's General Personnel Records system (OPM/GOVT–1). These routine uses, once in effect, will: (1) Permit disclosure of information on health care facility employees where necessary for purposes of obtaining accreditation or other approval rating from State or local government, or private independent review commission or board; and (2) Permit disclosure of personnel data from the Office's Central Personnel Data File (CPDF) to the Veterans Administration for purposes of a matching program.

COMMENT DATE: Any interested party may submit written comments regarding this proposal. To be considered, comments must be received on or before August 18, 1980.

ADDRESS: Address comments to: Deputy Assistant Director for Work Force Information, Office of Personnel Management (Room 6429), 1900 E Street, N.W., Washington, D.C. 20415. Comments received will be available for public inspection at the above address from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: William H. Lynch, Work Force Records Management Branch (202) 254–9790/9793.

SUPPLEMENTARY INFORMATION: The Office has published (44 FR 61705, October 26, 1979) a notice for a Privacy Act system of records identified as OPM/GOVT–1 General Personnel Records. Among the records included in this system are the Official Personnel Folders (OPF) of most current and former Federal employees. With regard to the Government-wide Privacy Act systems of records for which the Office publishes notice, the Office's regulations (5 CFR 297.403(b)) state that agencies ". . . shall not publish system notices for any records which are included in the OPM Government-wide systems of personnel records." Further, these regulations (5 CFR 297.406(c)) state that "Agencies may not unilaterally establish any routine uses for records in OPM's Government-wide systems of personnel records in addition to those published in the OPM notices for these systems." However, any agency may request the Office to revise an existing routine use or add a new one where circumstances warrant such a request (5 CFR 297.406(b)).

The Office has received a request from the Veterans Administration that a new routine use be added to the OPM/GOVT–1 notice. This routine use would permit disclosure of certain information from the OPF's of employees of Veterans Administration Hospitals to the Joint Commission on Accreditation of Hospitals (JCAH). This non-Federal Commission, as part of their program of accrediting hospitals, checks employee records, particularly those of the medical staff, for such reasons as including verification of their credentials and to see if they have met appropriate State licensing requirements. The Veterans Administration has determined that it is in the Government's interest that VA hospitals obtain and retain accreditation by this Commission and the Office believes that such a routine use is compatible with the purpose for maintenance of employment records in the OPF.

However, there may be other agencies in the field of health care (e.g., a Public Health Service Hospital) where such disclosures are also necessary and compatible. None of the existing routine uses for this system are appropriate as they do not specifically deal with a private sector, i.e., non-Federal, State, or local government agency (see routine uses k, and m below). Therefore, the Office is proposing the addition of a new routine use "cc." that will permit agencies to disclose from the OPF (or from the automated version thereof) information about employees where necessary for the purpose of obtaining accreditation or other approval rating from a private sector entity.

The Office believes that an integral part of the reason that these records are maintained is to protect the legitimate interests of the Government and, therefore, such a disclosure is compatible with the purpose for maintaining these records.

Additionally, pursuant to the Office of Management and Budget's (OMB) Supplemental Guidance for Matching Programs (44 FR 23138, April 18, 1979), the Office is proposing a time limited routine use to permit disclosure of individual data from the Central

Personnel Data File (CPDF) to the Veterans Administration (VA) for the purpose of conducting a matching program. The CPDF is part of the OPM/GOVT–1 system of records. The Veterans Administration will be conducting (under authority of Pub. L. 95–452) the match to detect and identify Federal employees who might owe the VA money from overpayment or erroneous payment of VA benefits or who have defaulted on education or home loans.

The most efficient way of comparing individuals who are receiving VA benefits with those who are Federal civilian employees is for the Office to provide the name, Social Security Number, date of bith, the salary, work schedule (full time, part-time, or intermittent), geographic location (duty station), and the agency identification and reporting office codes of Federal employees from CPDF to VA. This list will be matched by VA against benefit recipient files. Whereever a match occurs, the VA will conduct a more thorough review of the recipient's eligibility or loan plan. Under Office regulations (5 CFR 294.702) the disclosure of an employee's name, agency, salary, and duty station location is permitted. Thus, this routine use is necessary to permit disclosure of the employee's Social Security Number, date of birth, and work schedule.

Although the Social Security Number, date of birth, and the work schedule of an individual are not considered to be public information, anticipated benefits to the public justify disclosure of this information for matching with VA records under safeguards established by VA to protect against unauthorized data disclosure and to respect individual rights. Disclosure under the proposed routine use will permit VA to assure greater integrity of its benefit programs and, additionally, will be compatible with the personnel management responsibility for oversight of Federal employees' conduct, particularly with regard to the requirement that employees pay just financial obligations in a proper and timely manner.

An important limitation associated with the OPM's supplying of the data is that VA will not retain the data furnished by the OPM beyond six months. They will erase the source tapes after they are no longer needed. This will limit the possibility of unauthorized use of the data. In addition, since access is pursuant to a Privacy Act routine use, and accounting of disclosure is made as required by 5 U.S.C. 552a(c).

VA will operate this matching project in full compliance with the Office of Management and Budget's supplemental guidance for matching programs (44 FR 23138). This routine use is for a limited duration and is not lettered as with permanent ones. It will cease to exist on February 18, 1981. The text of both routine uses appear below in italics.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

OPM/GOVT–1

SYSTEM NAME:

General Personnel Records.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose information to Government training facilities (Federal, State, and local) and to non-Government training facilities (private vendors of training courses or programs, private schools, etc.) for training purposes.

b. To disclose information to educational institutions on appointment of a recent graduate to a position in the Federal service, and to provide college and university officials with information about their students working under the Cooperative Education, Volunteer Service, or other similar programs where necessary to the students obtaining of credit for the experience gained.

c. To disclose information to officials of foreign governments for clearance before a Federal employee is assigned to that country.

d. To disclose information to the Department of Labor; Veterans Administration; Social Security Administration; Department of Defense; Federal agencies that have special civilian employee retirement programs; or a national, state, county, municipal, or other publicly recognized charitable or social security administration agency (e.g., state unemployment compensation agencies); where necessary to adjudicate a claim under the retirement, insurance or health benefit program(s) of the Office of Personnel Management or an agency cited above, or to conduct an analytical study of benefits being paid under such programs.

e. To disclose to the Official of Federal Employee's Group Life Insurance information necessary to verify election, declination, or waiver of regular and/or optional life insurance coverage or eligibility for payment of claim for life insurance.

f. To disclose to health insurance carriers contracting with the Office of Personnel Management to provide a health benefits plan under the Federal Employees Health Benefits Program, information necessary to identify enrollment in a plan, to verify eligibility for payment of a claim for health benefits, or to carry out the coordination of benefits provisions of such contracts.

g. To disclose information to a Federal, State, or local agency for determination of an individual's entitlement to benefits in connection with Federal Housing Administration programs.

h. To consider and select employees for incentive awards and other honors and to publicize those granted. This may include disclosure to other public and private organizations, including news media, which grant or publicize employee awards or honors.

i. To consider employees for recognition through quality step increases, and to publicize those granted. This may include disclosure to other public and private organizations, including news media, which grant or publicize employee recognition.

j. To disclose information to officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

k. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

l. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), where necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit.

m. To disclose information to an agency in the executive, legislative, or judicial branch, or the District of Columbia Government, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting

agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

n. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

o. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

p. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

q. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

r. By the agency maintaining the records or the Office to locate individuals for personnel research or survey response and in the production or summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

s. To provide an official of another Federal agency information he or she needs to know in the performance of his or her official duties related to reconciling or reconstructing data files, in support of the functions for which the records were collected and maintained.

t. When an individual to whom a record pertains is mentally incompetent or under other legal disability, information in the individual's record may be disclosed to any person who is responsible for the care of the individual, to the extent necessary to assure payment of benefits to which the individual is entitled.

u. To disclose to the agency-appointed representative of an employee all notices, determinations, decisions, or other written communications issued to the employee, in connection with a psychiatric examination ordered by the agency under:

(1) fitness-for-duty examination procedures; or

(2) agency-filed disability retirement procedures.

v. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

w. To disclose information to officials of: the Merit Systems Protection Board, including the Office of the Special Counsel; the Federal Labor Relations Authority and its General Counsel; or the Equal Employment Opportunity Commission when requested in performance of their authorized duties.

x. To disclose to a requesting agency the home address and other relevant information concerning those individuals who, it is reasonably believed, might have contracted an illness, been exposed to, or suffered from a health hazard while employed in the Federal work force.

y. To disclose specific civil service employment information required under law by the Department of Defense on individuals identified as members of the Ready Reserve, to assure continuous mobilization readiness of Ready Reserve units and members.

z. To disclose information to the Department of Defense, National Oceanic and Atmospheric Administration, United States Public Health Service, and the United States Coast Guard needed to effect any adjustments in retired or retained pay required by the dual compensation provisions of Section 5532 of title 5, United States Code.

aa. To disclose to prospective non-Federal employers, the following information about a current or former Federal employee:

(1) Tenure of employment;

(2) Civil service status;

(3) Length of service in the agency and the Government; and

(4) When separated, the date and nature of action as shown on the Notification of Personnel Action, Standard Form 50.

bb. To disclose information to the Federal Acquisition Institute about Federal employees in procurement occupations and positions in other occupations whose incumbents spend the predominant amount of their work hours on procurement tasks; provided that the FAI shall only use the data for such purposes and under such conditions as prescribed by the notice of the Federal Acquisition Personnel Information System as published in the Federal Register on February 7, 1980 (45 FR 8399).

cc: *To disclose information on employees of Federal health care facilities to private sector (i.e., non-Federal, State, or local government) agencies, boards, or commissions (e.g., the Joint Commission on Accreditation of Hospitals). Such disclosures will be made only where the disclosing agency determines that it is in the Government's best interest (e.g., to assist in the recruiting of staff in the community where the facility operates or to avoid any adverse publicity that may result from a public criticism of the facility's failure to obtain such approval) to obtain accrediation or other approval rating and only to the extent that the information disclosed is relevant and necessary for that purpose.*

Note.—The following routine use is alphabetically unspecified as it is temporary in nature, i.e., will cease to exist after February 18, 1981.

To disclose the name, Social Security Number, date of birth, annual salary, work schedule (full time, part time, or intermittent), geographic location code (duty station location), agency sub-element code (employing agency), and servicing office location of all Federal employees as of April 30, 1980, to the Veterans Administration in connection with that agency's matching program, conducted under authority of Pub. L. 95-452, to reduce fraud and unauthorized payment in all benefits programs administered by that agency, and to collect debts owed to the Federal government. This routine use will be operative for a limited period of six months from August 18, 1980.

* * * * *

[FR Doc. 80-21751 Filed 7-17-80; 8:45 am]
BILLING CODE 6325-01-M

OFFICE OF THE U.S. TRADE REPRESENTATIVE

Determination With Regard to the Modification of Tariff Treatment of Certain Chemicals and Chemical Products

Correction

In FR Doc. 80-20096 appearing on page 45041 in the issue of Wednesday, July 2, 1980, middle column, third line change "Proclamation 11768" to read "Proclamation 4768."

BILLING CODE 1505-01-M

Trade Policy Staff Committee; Section 337 Case on Certain Surveying Devices: Solicitation of Public Views

Under Section 337 of the Tariff Act of 1930, as amended, the USITC issued an order excluding certain imported surveying devices from entry into the U.S. (see USITC Investigation No. 337-TA-68).

The Commission determined that the importation from Canada and sale in the United States of a surveying device infringed U.S. Letters Patent, No.

3,172,205 and had the effect or tendency to injure substantially a domestic industry in violation of section 337. The Commission has issued an exclusion order which would prohibit further importation of the infringing product into the United States.

On July 8, 1980, the Commission referred the order to the USTR, who receives it for the President, leads an inter-agency review and advises the President whether to approve the order, or whether to disapprove it for policy reasons.

The President, under section 337(g) (19 U.S.C. 1337(g)), has 60 days following receipt of the Commission's determination and order during which he may disapprove the order for policy reasons, economic or political. The President also may approve the Commission's order making it effective immediately or may take no action in which case the order becomes final following the 60 day period.

In order to prepare the recommendation to the President, the Trade Policy Staff Committee welcomes public views and comments on the effect of approving or disapproving this exclusion order.

Written comments should be submitted in 20 copies to the Secretary, Trade Policy Staff Committee, Room 735, Office of the United States Trade Representative, 1800 G Street, N.W., Washington, D.C. 20506. Such submissions should be received by the close of business, July 30, 1980. For further information contact Alice Zalik, telephone number (202) 395-3432.

Ann H. Hughes,

Chairman, Trade Policy Staff Committee.

[FR Doc. 80-21480 Filed 7-17-80; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 11255; (812-4683)]

Alpex Computer Corp.; Filing of an Application for an Order Pursuant to Section 6(c) of the Act Extending Exemptive Period of Prior Order. Exempting Applicant From All Provisions of the Act Other Than Sections 9, 17(a), 17(d), 17(e), 23, and 36 Through 53 and the Rules and Regulations Thereunder

July 11, 1980.

Notice is hereby given that Alpex Computer Corp., Commerce Park, Danbury Connecticut 06810, ("Applicant"), registered under the Investment Company Act of 1940 ("Act"), as a closed-end management investment company, filed an application on May 21, 1980 and an amendment on June 27, 1980, requesting an order of the Commission to extend until December 31, 1980 the exemptive period of a prior order ("Prior Order") which exempted Applicant for a period of two years commencing on May 9, 1978, from compliance with all requirements of the Act and the rules and regulations thereuder except those requirements set forth in Sections 9, 17(a), 17(d), 17(e), 23 and 36 through 53 of the Act and rules and regulations under such provisions (Investment Company Act Release No. 10236, May 9, 1978). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that from its organization in June 1968 through March 1970, Applicant was directly engaged, and from April 1970 until November 1973 it was engaged through Pitney Bowes-Alpex, Inc. ("PB-A"), primarily in the development, manufacture and marketing of Sales Point Information Computing Equipment. From April 1970 until June 1973, Applicant owned 50% of PB-A's common stock. In June 1973, Pitney Bowes, Inc. ("Pitney Bowes"), Alpex's joint venturer in PB—A, obtained a majority equity interest in PB-A, and seven of the nine seats on PB-A's Board of Directors thereafter were filled by designees of Pitney Bowes.

In November 1973, the Board of Directors of PB-A voted, over the objections of Applicant's representatives, to wind up the operations of PB-A and terminate its business. In December 1973, Applicant commenced an action in the United States District Court for the Southern District of New York on its behalf and derivatively on behalf of PB-A seeking to recover damages from Pitney Bowes and seven present or former officers and/or directors of PB-A.

When Applicant's equity interest in PB-A was reduced to 36%, however, such interest became "investment securities" as defined in the Act and Applicant fell within the definition of an investment company as set forth in Section 3(a)(3) of the Act. In 1974, Applicant registered pursuant to Section 8 of the Act as an investment company. In 1975, Applicant received an order pursuant to Section 6(c) of the Act exempting Applicant from the reporting requirements of the Act through December 31, 1975.

Applicant states that in June 1974 it commenced research and development activities primarily utilizing electronic technology and devices. In 1976, Applicant entered into separate license agreements with Coleco Industries, Inc., and Fairchild Camera and Instrument Corporation, under which such companies manufactured and sold electronic television games developed by Applicant. In addition, in 1976, Alpex began developing a small computer system which it called the Alpex 900 Information Network (the "System"). Because of the substantial change in the nature of Applicant's business beginning in 1974 and in lieu of applying for further exemptions from the Act, in April 1976, Applicant applied for an order declaring that Applicant had ceased to be an investment company and that its registration under the Act ceased to be in effect pursuant to Section 8(f) of the Act. While the application pursuant to Section 8(f) was pending, Applicant and Pitney Bowes reached a settlement of Applicant's claims under which, in September 1976, Applicant received $11,000,000. A portion of the proceeds of the settlement (net of provision for income taxes and certain legal expenses) was applied by Applicant for the required redemption on May 1, 1977 of the entire outstanding $3,500,000 principal amount of its 9% convertible subordinated debentures due September 1, 1983 and to the payment of $866,250 of accumulated deferred interest thereon. The balance of such net proceeds were placed by Applicant in United States treasury bills and insured savings accounts pending application to its on-going business activities.

Applicant states that in response to the Section 8(f) application, the staff advised Applicant that it would not recommend approval of such application at that time. However, in light of Applicant's status as an inadvertent investment company and the substantial change in the nature of its business beginning in 1974, Applicant applied for and received the Prior Order. At the time the Prior Order was requested, Applicant contemplated that it might be in a position to renew its application pursuant to Section 8(f) of the Act for termination of its registration thereunder prior to the May 9, 1980 expiration date of the Prior Order.

Applicant indicates that it began manufacturing the System in 1978 and in April 1979 began marketing the System. The System is intended for use by businessmen, executives and others needing up to the minute information on which to base decisions. The System requires no programming knowledge or special skills and utilizes ordinary telephone lines to transmit information which is displayed almost immediately

on a standard color or black and white television set. Applicant represents that it incurred research and development expenditures of $599,278 in 1978 and $648,352 in 1979, in connection with the System. In August 1979, as a result of the inability to market the System, a modification program was begun primarily to incorporate in the System a dedicated cathode ray tube, which displays considerably more data than television sets originally intended to be utilized with the System. The program resulted in a provision for inventory write-downs of $450,000 as of June 30, 1979. Applicant states that on September 10, 1979, due to the continued inability to market the System, the Board of Directors of Applicant authorized certain actions which significantly reduced Applicant's operations. The Board authorized the program modifying the System to continue on a limited basis. Also, as authorized by the Board, Applicant terminated 23 of its 39 employees and began returning for credit or selling certain of its inventories and fixed assets (resulting in an additional provision for inventory write-downs of $800,000 and a provision for fixed asset write-downs of $60,000). Applicant also states that the Board accepted voluntary reductions in officer's salaries and secured the services of marketing consultants for the purposes of reviewing Applicant's business and prospects.

In light of Applicant's inability thus far to market the System, Applicant represents that Board has considered the viability of discontinuing operations and liquidating Applicant but has to date rejected this possibility for several reasons. Applicant's liabilities currently exceed its assets by a substantial amount (i. e., an aggregate deficit of $779,961 as of March 31, 1980, as shown in Applicant's Form 10–Q Quarterly Report for the quarter ended on that date). Therefore, liquidation of Applicant at this time would produce proceeds insufficient to repay in full Applicant's outstanding long-term debt securities (having a current aggregate principal amount of $2,492,000). As a result, Applicant asserts that its stockholders likely would receive no distribution if Applicant were to be liquidated at the present time. In addition, the current and future value of Applicant's holdings of cash and United States treasury bills ($1,429,091 as at March 31, 1980) and its net operating loss carryovers ($1,900,000 as at March 31, 1980 without taking account of an aggregate of $1,100,000 of additional book losses representing reserves for inventory write-downs) would be lost in a current liquidation.

Applicant represents that its Board of Directors has weighed the disadvantages of a current liquidation against the cost of remaining in business as well as the potential benefits which may be derived from Applicant's current activities. As the result of the substantial cutback in personnel and activities which took place after the September 10, 1979 meeting of Applicant's Board, Applicant's ongoing operating expenses have been drastically reduced from the level maintained in prior periods. After giving effect to the interest income realized on Applicant's holdings of cash and United States treasury bills, Applicant's net operating expenses, on a cash basis, were $29,971 for January 1980, $31,408 for February 1980, $29,078 for March 1980, and $28,157 for April 1980. (The amounts reflect monthly accruals for certain cash item, such as interest expense on Applicant's long-term debt securities and legal and accounting expenses, which are not paid monthly by Applicant. In addition, the amounts do not include certain non-recurring cash items related to a terminated employee and an adjustment of prior year' insurance expense which aggregated $4,100 for January 1980, $10,800 for February $1,000 for March 1980, and $2,600 for April 1980).

Applicant represents that on October 5, 1979, the Board was authorized to study the feasibility of developing certain other products not related to the System. In addition, authorization was granted to consider a merger of Applicant or a sale of Applicant's stock or assets. Alternatively, authorization was granted to consider utilizing a portion of Applicant's assets to acquire a company that may not necessarily be technologically oriented, such as one with a positive cash flow, which could make use of Applicant's net operating loss carryovers.

Applicant states that on June 12, 1980, Norman Alpert ("Alpert"), President of Applicant and, at that time, the record owner of approximately 28% of Applicant's outstanding Common Stock, sold to the Erie Group, a Nevada corporation ("Erie"), 442,780 shares of Applicant's Common Stock for the purchase price of $177,112. The 442,780 shares represent 50% of the Common stock owned of record by Alpert prior to such sale.

Erie is a holding company having its principal office in Milwaukee, Wisconsin, which owns 10% of the capital stock of Erie Manufacturing Co., Inc., a Wisconsin corporation which has its principal business and principal office located in Milwaukee. Erie Manufacturing Co., Inc. manufactures and sells water control, energy control and oxygen support equipment.

Applicant represents that the purpose of Alpert's sale of the aforementioned shares of Common Stock to Erie was and is to broaden the base of the management of Applicant and facilitate a possible business combination between Applicant and Erie pursuant to which Erie would assume control of Applicant's business and management. Applicant further represents that Erie has agreed to use its best efforts to formulate and present to stockholders of Applicant for their approval Annual Meeting of Stockholders of Applicant a proposal to effect or consummate a transaction in which Erie and its subsidiaries, or a portion thereof, will be merged into or otherwise acquired by Applicant. Erie has indicated, without in any manner binding itself, that it currently contemplates that, upon consummation of any such proposal, Applicant would assist Erie in the use of computers and electronics to enhance the products currently manufactured and sold by Erie's subsidiaries and Applicant also would make available to Erie its 12,000 square foot leased factory for the manufacture of certain such products. In addition, Erie has indicated that it currently contemplates that it would assist Applicant in attempting to sell its thus far unmarketable System, both domestically and internationally. Applicant contends that when such changes occur it will be restored to the status of an active operating company and will be in a position to renew its pending application to the Commission pursuant to Section 8(f) for termination of its registration thereunder as an investment company.

Applicant is herein requesting an order solely for the purpose of extending the exemption period of the Prior Order from May 9, 1980 through December 31, 1980, the end of Applicant's current fiscal year. The period of the extension is related to the belief of Applicant's management that the future course of the company will be charted before the end of such fiscal year.

Applicant submits that no public interesdt would be served in requiring it at this time to comply with the requirements of the Act and the rules and regulations promulgated thereunder, with the exception of the requirements of Section 9 (making certain person ineligible to serve as directors or officers or in certain other capacities for a registered investment company), Sections 17(a), 17(d) and 17(e) (prohibiting certain transactions

between a registered investment company and its affiliated persons or principal underwriter), Section 23 (restricting the issuance and repurchase of securities by a registered closed-end company), and Section 26 through 53 (imposing sanctions for breach of fiduciary duty, larceny and embezzlement by persons affiliated with a registered investment company and setting forth certain administrative matter) of the Act and the rules and regulations under such provisions. Applicant asserts that compliance with certain other requirements of the Act continue to be, as it was at the time of the Prior Order, in conflict with Applicant's corporate purposes and structure and undly burdensome for Applicant.

Section 6(c) of the Act provides, in part, that the Commission may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than August 5, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-21494 Filed 7-17-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11256; (812-4684)]

NEL Cash Management Account, Inc., NEL Cash Management Account II, Inc.; Filing of Application Pursuant to Sections 17(b) and 17(d) of the Act and Rule 17d-1 Thereunder for an Order Permitting Proposed Consolidation

July 11, 1980.

Notice is hereby given that NEL Cash Management Account, Inc. ("Account I") and NEL Cash Management Account II, Inc. ("Account II"), 501 Boylston Street, Boston, Mass. 02117 (hereinafter sometimes referred to collectively as the "Accounts", or "Applicants") filed an application on May 28, 1980 for an order pursuant to Sections 17(b) and 17(d) of the Investment Company Act of 1940 ("Act") and Rule 17d-1 thereunder, exempting from the provisions of Section 17(a) of the Act and permitting under Section 17(d) of the Act and Rule 17d-1 thereunder, the proposed acquisition by NEL Cash Management Trust (the "Trust") of substantially all of the assets of the Accounts. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants

Both Account I and Account II are registered under the Act as open-end, diversified management investment companies. As of May 19, 1980, Account I had assets of approximately $240,000,000 beneficially owned by approximately 22,000 shareholders and Account II had assets of approximately $8,600,000 beneficially owned by approximately 700 shareholders.

The Trust, a business trust organized under the laws of the Commonwealth of Massachusetts, is being organized for the purpose of succeeding to the operations of the Accounts and to permit an equitable allocation of the impact of the reserve requirements made applicable to money market funds by the Board of Governors of the Federal Reserve System (the "Federal Reserve Board") on March 14, 1980. Among the benefits Applicants expect to result from the proposed transaction are avoidance of certain Massachusetts taxes to which the Accounts are now subject, and a reduction in various fees and expenses. Applicants represent that except for provisions relating to the reserve requirements, the investment objectives and policies of the Accounts and the Trust will be identical.

The Trust will have three of shares—Series A, B and C—participating in a single pool of assets. The Trust's declaration of trust will provide that shares of Series A shall be issued (i) to Account I in connection with the purchase of the assets of Account I by the Trust; (ii) in respect of investments by shareholders of the Trust who were shareholders of Account I immediately prior to such purchase and who continue to hold shares of Series A, but only to the extent such investments could have been made in Account I immediately prior to such purchase in accordance with the eligibility rules of Account I; and (iii) upon the payment, from time to time, of dividends in shares with respect to any Series A shares issued pursuant to (i) or (ii). The declaration of trust will also provide that shares of Series C shall be issued in respect of any investment in the Trust which is not subject to the Federal Reserve Board's reserve requirements, and shares of Series B shall be issued for all other investments in the Trust.

New England Mutual Life Insurance Company ("New England Life") is registered as an investment adviser under the Investment Advisers Act of 1940 and serves as investment adviser for Account I and Account II and will serve as investment adviser for the Trust. New England Life presently owns more than five percent of the outstanding shares of Account II. The directors and officers of Account I and Account II are identical and will be the trustees and officers of the Trust. New England Life is an affiliated person of each of the Accounts, and will be affiliated person of the Trust, by reason of Section 2(a)(3)(E) of the Act. Account II is an affiliated person of New England Life by reason of Section 2(a)(3)(B) of the Act. Moreover, Account I, Account II and the Trust may be affiliated persons of each other by virtue of Section 2(a)(3)(C) of the Act.

The Proposed Transaction

Applicants state that the transaction to which the present application relates will be effected pursuant to an Agreement and Plan of Reorganization and Liquidation ("Agreement") among the Accounts and the Trust. Upon satisfaction of certain terms and conditions on or before a closing date (the "Closing Date"), including requisite approval by the Accounts' shareholders, the Trust will acquire all of the assets

and properties of the Accounts in exchange for shares of the Trust and the assumption of all of the liabilities of the Accounts by the Trust. Applicants represent that shares of Series A and Series C of the Trust will be issued to Account I in exchange for Account I's assets. Applicants further represent that shares of Series B and Series C of the Trust will be issued to Account II in exchange for the assets of Account II. The terms of the Agreement provide that the acquisition of the assets of the Accounts by the Trust shall be accomplished on the basis of the Accounts' respective net asset values. Applicants state that the number of Trust shares to be issued to Account I and Account II is determined by dividing the value of the assets of Account I, or Account II, as the case may be, to be transferred to the Trust, by the net asset value per share of the Trust.

Following the exchange of the assets of the Accounts for shares of the Trust, the Accounts will be dissolved and liquidated. As part of the liquidation the Accounts will distribute shares of the appropriate Trust series to their respective shareholders in exchange for the Account shares. Applicants assert that because each Account seeks to maintain a constant net asset value per share of $10.00 and the constant net asset value per Trust share has been set at $1.00, each Account shareholder will be entitled to receive ten shares of the Trust for each account share owned on the Closing Date.

According to the application, the Trust will establish for each Account shareholder open accounts containing the appropriate number of shares of each series. Applicants state that each of the Accounts will bear its own mailing expenses in connection with the proposed transaction. Applicants also state that the Trust will assume all other fees and expenses incurred by the Accounts in connection with the proposed transaction; the expenses borne by the Trust will be charged against the income of the Trust over a period not to exceed one year. If the acquisition by the Trust of the assets of either Account is not consummated for any reason, the non-participating Account shall bear its own expenses relating to the Agreement and the transactions contemplated thereby. Applicants further submit that the reorganization may be abandoned prior to the Closing Date by mutual consent of the Accounts and the Trust or by any of them if any condition to be satisfied by the others has not been satisfied or if material litigation is pending or threatened against any of them in respect of the proposed transaction.

Orders Requested

Section 17(a) of the Act provides, in pertinent part, that it is unlawful for an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, knowingly to sell any security or other property to, or knowingly to purchase any security or other property from, such registered company. Section 17(b) of the Act provides, however, that notwithstanding Section 17(a) the Commission, upon application, shall exempt a transaction from such prohibition if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Section 17(d) of the Act and Rule 17d-1 thereunder provide, in pertinent part, that it shall be unlawful for an affiliated person of a registered investment company, or an affiliated person of such a person, to participant in or effect any transaction in connection with any joint enterprise or arrangement in which any such registered investment company is a participant, unless an application regarding such arrangement has been granted by the Commission. In passing upon such application the Commission will consider whether the participation of such registered investment company is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from, or less advantageous than, that of other participants.

Applicants believe that the proposed transaction would be exempted from Section 17(a) by the provisions of Rule 17a-8 adopted under the Act except that one basis upon which Account I is an affiliated person of an affiliated person of the Trust is that more than five percent of its outstanding shares are owned by New England Life. Applicants state, however, that prior to the consumption of the proposed transaction, the findings required by Rule 17a-8 will have been boards of directors of Account I and Account II and the trustees of the Trust, and recorded in their respective minute books.

Applicants submit that the terms of the proposed transaction are reasonable and fair to Account I, Account II, and the Trust and do not involve overreaching by any person concerned, and that the proposed transaction is consistent with the purposes of the Act and the investment policies of the Accounts and the Trust. Applicants contend that there would be several benefits to the Accounts resulting from the proposed transaction. By changing their legal status from corporations to a business trust, both Account I and Account II, under current law, will no longer be subject to a Massachusetts tax of one-third of one percent of gross investment income and will not be required to incur the expenses of conducting regular capital shares. In addition, Applicants represent that the transaction should produce economies of scale that will be beneficial to their shareholders. Applicants also assert that Account shareholders will enjoy the benefit of a reduction in advisory fee, because the combined assets of the Trust are expected to exceed $100,000,000, which amount is a free break point under the advisory agreement to be entered into between New England Life and the Trust. Accoring to the application, the combining of the assets of the Accounts into the Trust will also eliminate certain duplicative expenses. The costs of the transaction, estimated at $100,000 (with the exception of mailing expenses of Account I and Account II), will be borne by the Trust, thus charging the same amount per share to each shareholder of Account I and Account II. Applicants state that the Agreement further provides that the Accounts will participate in the transaction on substantially identical terms, and it therefore is appropriate that each share bear the same per share cost.

Notice is further given that any interested person may, not later than August 5, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a Statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be constroverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application

will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advise as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the Hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-21493 Filed 7-17-80; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 21655; (70-6478)]

System Fuels, Inc., et al.; Proposal To Lease Railroad Equipment

July 14, 1980.

In the Matter of System Fuels, Inc., 666 Poydras, Noro Plaza, New Orleans, Louisiana 70130; Arkansas Power & Light Co., First National Building, Little Rock, Arkansas 72203; Louisiana Power & Light Co.; 142 Delaronde Street, New Orleans, Louisiana 70174; Mississippi Power & Light Co., Electric Building, Jackson, Mississippi 39205; and New Orleans Public Service Inc., 317 Baronne Street, New Orleans, Louisiana 70112.

Notice is hereby given that Arkansas Power & Light Company ("Arkansas"), Louisiana Power & Light Company ("Louisiana"), Mississippi Power & Light Company ("Mississippi"), and New Orleans Public Service, Inc. ("New Orleans"), ("collectively the "Operating Companies"), all public utility subsidiary companies of Middle South Utilities, Inc. ("Middle South"), a registered holding company, together with System Fuels, Inc. ("SFI"), a jointly owned nonutility subsidiary company of the Operating Companies; have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9, 10 and 12(b) of the Act and Rule 45 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

SFI proposes to enter into a lease of railroad equipment ("Lease") with The Connecticut Bank and Trust Company, as trustee ("Owner Trustee") designated as such in an agreement between the Owner Trustee and Xerox Credit Corporation or a wholly owned subsidiary thereof, under which SFI will lease from the Owner Trustee 750 100-ton rotary dump Bethgon Coalporters ("Equipment"). The Equipment will be used initially to transport coal from Wyoming to the White Bluff Steam Electrical Generating Station being constructed by Arkansas.

The Equipment is presently being manufactured by Bethlehem Steel Corporation ("Bethlehem") and delivery of, and payment for, the Equipment is presently expected to commence in September, 1980 and to terminate no later than December 31, 1980. Bethlehem will sell the Equipment to the Owner Trustee and will retain a security interest in the Equipment. The currently established cost of the Equipment is $32,400,000. The cost is subject to increase primarily based upon increases in certain of Bethlehem's costs, although any amounts in excess of $35,640,000 will, unless otherwise agreed among the parties, be excluded from the cost. SFI will be obligated to purchase any cars which are not purchased by the Owner Trustee as a result of such exclusion.

Concurrently with the initial purchase of Equipment by the Owner Trustee, SFI will enter into the Lease with the Owner Trustee. The basic term of the Lease will terminate on January 1, 1999. SFI will have the options (a) to renew the Lease for all of the Equipment at that time under the Lease for one two-year period at a semi-annual rental equal to 50% of the semi-annual rental during the basic term and (b) by right of first refusal to purchase all of the Equipment at that time under the Lease from the Owner Trustee.

The Lease will be a net lease conferring all responsibility for operation, maintenance, insurance, certain taxes, and other expenses upon SFI. SFI will be obligated to maintain the Equipment in good operating order, normal wear and tear excepted, and will have the right at its own cost and expense to make certain modifications and improvements to the Equipment. The Lease will be noncancellable except: (a) in the event of total loss, destruction or irreparable damage of the Equipment; or (b) on or after January, 1991, upon a determination by SFI that the Equipment has become economically obsolete.

Lease payments will be made by SFI in one interim payment on January 1, 1981 and thereafter over the basic term in thirty-six semi-annual installments, payable in arrears, commencing on July 1, 1981. These semi-annual Lease payments will each be in an amount equal to 4.91522% of the owner's cost. SFI understands that the Lease rate is equivalent to an effective annual interest rate of 6.96273%.

So long as SFI makes timely payments and fully performs all of its obligations under the Lease and related documents, the Owner Trustee covenants, as lessor, that it will not hinder or interfere with SFI's peaceable and quiet enjoyment of the possession and use of the Equipment.

SFI does not presently contemplate subleasing any of the Equipment. However, it is possible that in the future SFI may sublease to third parties, with the written consent of the lessor (not to be unreasonably withheld), a portion of the Equipment which at that time represents excess coal transportation capacity. Any such subleasing transactions would be of a temporary nature.

In connection with the proposed transaction, Arkansas, Louisiana, Mississippi and New Orleans, as the Operating Companies of SFI, will covenant and agree that so long as SFI shall have any obligations under the Lease and certain related documents the Operating Companies will, severally in accordance with their present respective shares of ownership of the common stock of SFI, take any and all action as, from time to time, may be necessary to keep SFI in a sound financial condition and to place SFI in a position to perform and discharge, and will cause SFI to perform and discharge, in a timely manner, all of its obligations under the documents referred to above.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than August 11, 1980, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above stated addresses, and proof of service (by affidiavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations

promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-21492 Filed 7-17-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1868]

Massachusetts; Declaration of Disaster Loan Area

The area of the Old Robinson Foundry off Plain Street in Lowell, Massachusetts, constitutes a disaster area as a result of a fire which occurred on May 11, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on September 8, 1980, and for economic injury until the close of business on April 9, 1981, at:

Small Business Administration, District Office, 150 Causeway Street, 10th Floor, Boston, Massachusetts 02114.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 9, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-21631 Filed 7-17-80; 8:45 am]

BILLING CODE 8025-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 140
Friday, July 18, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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M-286; July 15, 1980]

CIVIL AERONAUTICS BOARD.

Short notice and closure of Board meeting.

TIME AND DATE: 4 p.m., July 14, 1980.

PLACE: Room 1012, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: Pacific strategy.

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

SUPPLEMENTARY INFORMATION: A short notice meeting was called at 4:00 p.m. on July 14, 1980 in order to consider this item for discussion prior to the Interagency Committee Meeting scheduled for 2:00 p.m., July 15, 1980. It was not possible to schedule this meeting earlier because it was not known until the afternoon of July 15, 1980 that all three Board Members wanted to participate directly in this discussion since it might include items that are of particular concern to both Members Bailey and Dalley. Accordingly, the following Members have voted that this item be short noticed and that no earlier announcement of this meeting was possible:

Chairman Marvin S. Cohen.
Member Elizabeth E. Bailey.
Member George A. Dalley.

This item concerns matters which could affect U.S. negotiations with other governments. Public disclosure, particularly to foreign governments, of opinions, evaluation and strategies of the negotiations could seriously compromise the ability of the United States Delegation to achieve an agreement that would be in the best interest of the United States. Accordingly, we believe that public observation of any meeting on this subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b (c)(9)(B) and 14 CFR section 3106.5(i)(2), and that any meeting of this item should be closed:

Chairman Marvin S. Cohen.
Member Elizabeth E. Bailey.
Member George A. Dalley.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(b) and 14 CFR Section 3106.5(i)(2), and that this meeting may be closed to public observation.

Mary McInnis,
General Counsel.

[S-1378-80 Filed 7-16-80; 3:42 pm]
BILLING CODE 6320-01-M

2

[M-285, Amdt. 2; July 15, 1980]

CIVIL AERONAUTICS BOARD.

Short notice of addition to the July 17, 1980 Board meeting.

TIME AND DATE: 9:30 a.m., July 17, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 9a. Docket 37732, Selection of carrier to provide essential air service at Alamogordo and Silver City, New Mexico: Request for instructions.

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

[S-1379-80 Filed 7-16-80; 3:41 pm]
BILLING CODE 6320-01-M

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, July 22, 1980.

PLACE: Commission conference room, No. 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Freedom of Information Act Appeal No. 80-4-FOIA-237, concerning a respondent's request for documents in regard to a Commissioner's charge.
2. Proposed contract for services needed in connection with a court case.
3. EEOC Semi-annual Regulatory Agenda.
4. Proposed Statement on Layoffs and Equal Employment Opportunity.
5. Proposed 29 CFR 1613.414 mixed-case regulations.
6. Report on Commission Operations by the Executive Director.

Closed to the public:

Litigation authorization: General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued July 15, 1980.

[S-1376-80 Filed 7-16-80; 2:22 pm]
BILLING CODE 6570-06-M

4

EXPORT-IMPORT BANK OF THE UNITED STATES.

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act", 5 U.S.C. 552b, notice is hereby given that the Board of Directors of the Export-Import Bank of the United States will meet in open session on Monday, July 28, 1980, at 10 A.M., to consider the following matters:

Quarterly interest rate review
Medium-term programs
Aircraft policy review

The meeting will be held in room 1143 at 811 Vermont Avenue NW., Washington, D.C.

Requests for information concerning this meeting may be directed to Warren W. Glick, General Counsel, telephone 202-566-8334.

Dated: July 16, 1980.

Warren W. Glick,
General Counsel, Export-Import Bank of the United States.

[S-1375-80 Filed 7-16-80; 1:47 pm]
BILLING CODE 6690-01-M

5

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 47300, July 14, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., July 16, 1980.

CHANGE IN THE MEETING: The following item had been added:

Item Number, Docket Number, and Company

M-18—RM79-76, High Cost Natural Gas Produced from Tight Formations.

Kenneth F. Plumb,

Secretary.

[S-1374-80 Filed 7-16-80; 1:18 pm]

BILLING CODE 6450-85-M

6

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

July 14, 1980.

TIME AND DATE: 10 a.m., Friday, July 18, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Consolidation Coal Company, Docket No. WEVA 80-333-R (Petition for Discretionary Review).
2. Ideal Basic Industries, Docket No. SE 79-16-M (Petition for Discretionary Review).

It was determined by a unanimous vote of Commissioners that Commission business required that a meeting be held on these items and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202-653-5632.

[S-1377-80 Filed 7-16-80; 2:30 pm]

BILLING CODE 6820-12-M

7

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, July 23, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed adjustments to benefits for Federal Reserve Bank officers.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: July 15, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[S-1371-80 Filed 7-16-80; 10:09 am]

BILLING CODE 6210-01-M

8

FEDERAL RESERVE SYSTEM.

TIME AND DATE: Approximately 11 a.m., Wednesday, July 23, 1980 (following a recess at the conclusion of the closed meeting).

PLACE: Board Building, C Street entrance between 20th and 21st Streets NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: Summary Agenda: Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed amendment to Regulation Z (Truth in Lending) to increase the tolerance for accuracy in disclosing the annual percentage rate in irregular mortgages. (Proposed earlier for public comment; Docket No. R-0295.)

Discussion Agenda:

1. Proposed 1981 budget objectives for the Federal Reserve Banks.
2. Any agenda items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: July 15, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[S-1372-80 Filed 7-16-80; 10:10 am]

BILLING CODE 6210-01-M

9

NUCLEAR REGULATORY COMMISSION.

DATE: July 15 (change) 21 and 22, 1980.

PLACE: Commissioners' conference room 1717 H Street NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED: Tuesday, July 15 (additional item) (other items as announced):

3 p.m.

Briefing on Current Status of Browns Ferry Problem (approximately ½ hour, public meeting).

Monday, July 21:

9:30 a.m.

1. Budget Presentation—Nuclear Reactor Regulation (approximately 3 hours, public meeting).

2 p.m.

1. Budget Presentation—Nuclear Regulatory Research (approximately 3 hours, public meeting).

Tuesday, July 22:

1 p.m.

1. Briefing by Executive Branch on Export Matter (approximately 1 hour, closed—Ex 1).

2 p.m.

1. Budget Presentations—Inspection and Enforcement (approximately 3 hours, public meeting).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498.

Those planning to attend a meeting should reverify the status on the day of the meeting.

Roger M. Tweed,

Office of the Secretary.

July 14, 1980.

[S-1373-80 Filed 7-16-80; 12:01 pm]

BILLING CODE 7590-01-M

Reader Aids

Federal Register

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INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

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523-5266 -5282	Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

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523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
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523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, JULY

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HHS/FDA		DOT/SLSDC	HHS/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

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List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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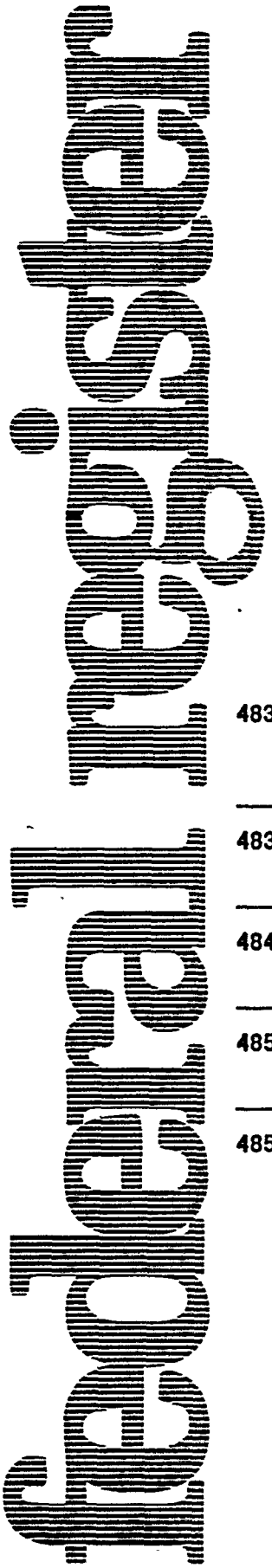

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Friday, July 18, 1980

Federal Register

Friday
July 18, 1980

Part II

Department of Health and Human Services

Office of Human Development Services

Grants to Indian Tribes for Social and Nutrition Services

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Part 1328

Grants to Indian Tribes for Social and Nutrition Services

AGENCY: Office of Human Development Services (HDS), HHS.

ACTION: Final rule.

SUMMARY: The Administration on Aging (AoA), in the Office of Human Development Services, is issuing final regulations for a new program for older Indians authorized by Title VI of the Older Americans Act, as amended. The purpose of this program is to promote the delivery of social and nutrition services for older Indians comparable to the services provided through the State and Community Programs on Aging, under Title III of the Act. Eligible tribal organizations will be able to apply for direct funding to pay the costs of providing social and nutrition services to Indians at 60 and older, including the acquisition, alteration, or renovation of multipurpose senior centers.

EFFECTIVE DATE: July 18, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Frances M. Holland, Division of State and Community Programs, HHS North Building, Room 4643, 330 Independence Avenue, SW., Washington, D.C. 20201 (202) 472-3058.

SUPPLEMENTARY INFORMATION:

Background

History of the Older Americans Act (OAA)

The Older Americans Act (OAA) was originally enacted in 1965. It authorized grants to State agencies on aging to start community-based social service projects for older Americans.

The Act was amended eight times between 1965 and 1978. The most significant amendments were passed in 1972 and 1973. Title VII authorized a nutrition program and funds were awarded to local community projects to provide nutrition services to older persons. In 1973, the Title III social service program was revised substantially to provide for better organization at the State and local levels. The 1973 amendments also added a new Title V to the Act, which authorized direct grants to local community agencies to pay part of the cost of acquiring, renovating, altering and initial staffing of facilities for use as multipurpose senior centers.

The 1975 amendments specified that four priority services be included in State plans: transportation, home services, legal services, and residential repair and renovation. These amendments also added a new section, 303(b)(3)(A) to the Act. This section authorized the Commissioner to withhold a portion of a State's allotment and to grant it directly to an Indian tribe if he or she determined that the State had failed to provide benefits to older Indians that were equivalent to those provided to non-Indian older persons, and that the Indians would be better served by a direct grant. This provision was never used.

The 1978 Amendments

The President signed the Comprehensive Amendments to the Older Americans Act on October 18, 1978 (Pub. L. 95-478). These amendments restructured and reorganized the OAA programs by consolidating the separate social services, senior centers, and nutrition services programs.

The 1978 amendments also enacted Title VI, a new direct grant program to Indian tribal organizations for older Indians. Title VI is, in large part, the result of congressional response to initiatives by several national Indian organizations who were spurred by the inequities older Indians were experiencing in the lack of services being received under the OAA.

Public Participation

On December 5, 1979, a Notice of Proposed Rulemaking (NPRM) was published in the Federal Register (44 FR 70064). This notice proposed regulations for 45 CFR Part 1328, Grants for Indian Tribal Organizations, which would implement Title VI of the Older Americans Act.

Hearings

During the 60 day comment period, the AoA conducted public hearings at nine sites located in seven Federal Regions. Over 200 individuals and representatives of Indian tribes, State and area agencies on aging, and local and national organizations sent written comments and presented formal testimony. Throughout the comment period, AoA staff consulted with the National Indian Council on Aging (NICOA) and various Federal agencies including the Administration for Native Americans (ANA), the Indian Health Service (IHS), the Bureau of Indian Affairs (BIA), and the Intra-Departmental Council on Indian Affairs. These final regulations were developed based on the formal testimony, written comments, and the advice and recommendations of the Federal agencies consulted.

Concurrent with these activities, AoA began broad public involvement in developing the regulations for Title III, Grants for State and Community Programs on Aging. Final regulations for the Title III program were published on March 31, 1980 (45 FR 21126). As indicated in the discussion of issues which follows, some of the provisions of the Title III regulations were incorporated into the final regulations for Title VI in those cases in which consistency between the two programs seemed appropriate.

Comments

As a result of the public response made through written comments and at the nine public hearings, several significant issues were raised. Since many of the issues raised are relevant to more than one section of the NPRM, the following discussion is presented by issue, rather than by section. In addition, a number of the comments received are editorial in nature, noting errors in spelling or suggesting minor changes in wording to clarify the intent of the regulation. Many of these recommended revisions have been incorporated in the final regulations. Many other commenters raised concerns which would require statutory changes. These cannot be resolved in the regulatory process. However, they are addressed in the final section of the following discussion of issues.

Relationship Between Titles VI and III

- *General Discussion:* The Act establishes the general relationship between Titles VI and III in the statement of purpose for each Title. Section 601 states "It is the purpose of the Title to promote the delivery of social services, including nutrition services, for Indians that are comparable to services provided under Title III." In the statement of purpose for Title III, state and local agencies are charged with the responsibility of planning and providing social and nutrition services, including multipurpose senior centers, in order in part to "secure and maintain maximum independence and dignity in a home environment for older individuals."

We have spent a great deal of time and effort analyzing the relationship between the provisions of Title III and Title VI. The objectives of Title III for assuring maximum independence and well-being for all older persons are, we believe, equally valid for Title VI. The unique characteristic of Title VI is that it is designed to accomplish these goals for older Indians through direct Federal

grants to eligible Indian tribal organizations, rather than through State and area agencies.

There is a basic idea of parallelism to Title III in Title VI; but we have been conscious in the development of these regulations not to extend the parallelism too far. We have recognized the unique cultural differences of the Indian population and the necessity, therefore, in a number of cases, to propose choices in favor of what is most suited to the special needs of older Indians living in the context of their culture.

• *Service Requirements:* Section 604 of the Act establishes specific relationships between the service requirements for Titles VI and III in four instances. Section 604(a)(9) requires full compliance with certain Title III requirements concerning the acquisition, alteration, or renovation of multipurpose senior centers. Sections 604(a) (8) and (10) require that nutrition, legal and ombudsman services provided under Title VI be delivered or made available "substantially in compliance" with the provisions of Title III.

One major question is the meaning of "substantially in compliance." We think we have the discretion to interpret "substantially in compliance" to mean that tribal organizations under Title VI need meet only certain essential requirements for service delivery. In those cases in which we are omitting Title III requirements for nutrition, legal, and ombudsman, we are doing so because we think that the special nature of services to Indians under Title VI makes the Title III requirements inappropriate or overly burdensome.

Title VI omits many Title III service delivery requirements. The requirement for preference for those with greatest economic or social need (Sections 305(a)(E) and 306(a)(5)(A) of the Act) and the requirement for development of a comprehensive and coordinated service delivery system (Section 306(a)(1) of the Act) are two significant Title III requirements that are not required in Title VI, and which we have omitted from the Title VI regulations. We think Congress intended to give tribal organizations considerable flexibility to administer this new Title VI program by specifying in Section 604 which services must comply with certain Title III services requirements, and allowing them the flexibility to provide the other services in a manner best suited to the cultural setting. We think the regulations should and do give the tribal organizations the flexibility indicated in the Act.

We adopted this approach in the Title VI NPRM and incorporated those requirements from the Title III NPRM that we concluded were necessary to assure that the Title VI program is in "substantial compliance" with the requirements for Title III. Some of these Title III provisions were modified in the final Title III regulations (45 FR 21126 March 31, 1980). These changes affect three service categories: Nutrition, legal, and ombudsman services. The major changes are described briefly below:

• Nutrition: The provision for food requirements, Section 1328.15(b) of the Title VI NPRM, (44 FR 70064, December 6, 1979) paralleled language that appeared in the Title III NPRM. Section 1328.15(b)(2), for instance, proposed to require that the tribal organization ensure that special meals are provided to meet the particular health, religious, cultural and dietary needs of individual older Indians. Section 1328.15(b)(3) proposed that appropriate food containers and utensils be available and used for disabled older Indians. Although we did not receive comments on these Title VI proposed requirements, comparable provisions in the Title III NPRM were opposed by a number of commenters who requested greater flexibility. The final Title III regulations at § 1321.147 (c) and (d) provide for special menus, *where feasible and appropriate,* and provide that appropriate food containers and utensils for blind and handicapped participants must be available for use upon request. We included these more flexible requirements in these Title VI regulations in § 1328.21(b).

• Legal and ombudsman services: Several sections of the Title VI NPRM have been modified to ensure consistency with the Title III program. In § 1328.3 of the final regulations for Title VI, we have included the definition for "long-term care facility" which parallels the definition used in the final Title III regulations in § 1321.43. We have also included in these final regulations the specific criteria for selection of legal service providers that we adopted in the final Title III regulations. We indicated in the Title VI NPRM that we thought that the general criteria proposed for legal services providers under Title III were inappropriate. We think that the final Title III criteria (§ 1321.151) which require the selection of the providers with expertise in areas of law affecting older persons and with demonstrated capacity to effectively deliver legal services to older persons are appropriate for Title VI. We have also included additional Legal Services Corporation regulations adopted in the final Title III regulations.

A comment was raised whether the requirements in § 1328.17(b)(iii)(C) that no employee or staff attorney of the provider be a candidate for partisan political office would prevent a legal services attorney funded under this part from participating in tribal political activities. We have concluded that it would not appear to do so. This restriction was adopted from the Legal Services Corporation (LSC) regulations. In interpreting the meaning of "partisan elective public office," LSC has adopted the interpretation contained in the Office of Personnel Management's regulations at 5 CFR Part 151, § 151.101, on political activity of State or local officers or employees. Section 151.101(g) of those regulations defines "nonpartisan election" as "an election at which none of the candidates is to be nominated or elected as representing a political party any of whose candidates for Presidential elector received votes in the past preceding election at which Presidential electors were selected." Tribal elective offices would appear to come within this definition of "nonpartisan," and thus not be covered by the prohibition. In addition, the prohibition against candidacy for elective public office applies to "staff attorneys," which LSC defines as "an attorney more than one half of whose annual professional income is received from a recipient that limits its activities to providing legal assistance to clients eligible for assistance under the Act." (45 CFR 1600.1). If a tribal attorney did not meet this definition, he or she would not in any case be covered by the restriction.

Discussion of Issues

1. *Issue: Concern that AoA was confusing or equating the terms "Indian tribe" and "tribal organization."* In § 1321.3 of the NPRM, we proposed the definitions of "Indian tribe" and "tribal organization" as those set forth in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b). Use of these definitions is required by section 602(b) of the Act. Some commenters indicated that they felt we were confusing or equating the terms "Indian tribe" and "tribal organization," although none of the commenters were specific as to the nature of that confusion.

AoA response: With the exception of the title of the NPRM, we used the terms "Indian tribe" and "tribal organization" in the same way as they are used in the statute. The NPRM was entitled "Grants to Indian Tribal Organizations for Social and Nutrition Services," to emphasize that grants would be awarded only to eligible tribal organizations and that tribal organizations would be

responsible for the development and implementation of the Title VI programs.

Since this terminology may have created some confusion, the title of the regulation has been changed to "Grants to Indian Tribes for Social and Nutrition Services," so that it is consistent with the program title set forth in Title VI. AoA believes that with the incorporation of this change, the use of the terms "Indian tribe" and "tribal organization" in the regulations is consistent with the use of these terms in the Act.

2. *Issue: Which tribes are eligible to authorize a tribal organization to apply for a grant under this part?* A number of commenters protested the restriction in Section 1328.3 of the NPRM limiting eligibility under Title VI to Federally recognized tribes, and thus to tribal organizations representing Federally recognized tribes. Concern was expressed that State recognized tribes were excluded from participation in the Title VI program.

AoA response: Section 602(b) of the Act requires for the purpose of Title VI that "Indian tribe" be defined as in Section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b). This definition, included in § 1328.3 of the NPRM, is as follows:

> "Indian tribe" means any Indian tribe, band, nation, or organized group or community, including any Alaska Native Village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. (Pub. L. 93-638).

The legislative history of Title VI provides further evidence of the congressional intent to limit the program to Federally recognized tribes. The Senate Report presents the rationale for establishing a separate title for "Grants for Indian Tribes." The Report cites a number of Federal statutes which provide ample precedent for direct funding to Indian tribes on the basis of "the direct relationship to the Federal Government that Indian tribes have traditionally had." In addition, the Report explicitly states that the program would be to provide social and nutrition services "for Federally recognized tribal organizations." [1]

The Bureau of Indian Affairs (BIA), which is partially responsible for administering the Indian Self-Determination and Education Assistance Act, maintains a list of tribes which are recognized as eligible to receive services from the Federal goverment because of their status as Indians. Our definition of "Indian tribe" would include only those tribes which are on this list. A copy of this list is available from BIA.

3. *Issue: Are tribal organizations that are not designated by Federally recognized tribes eligible to apply under this part?* There were many comments from urban and off-reservation Indian organizations protesting their exclusion from participation in the Title VI program. These organizations felt that they were eligible for the Title VI program based on the definition of "tribal organization" proposed in the NPRM which includes any legally established organization of Indians which is "democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities."

AoA response: As indicated in the discussion under Issue 2 above, only Federally recognized tribes are eligible under this part. Section 602(a) of the Act, which set forth the eligibility requirements for Title VI, specifies that the criteria are to establish the eligibility of a "trial organization of an *Indian tribe.*" (Emphasis added). In addition, the Senate Report cited above explicitly states that the program would be to provide social and nutrition services for "Federally recognized tribal organizations." Accordingly, a tribal organization that meets the definition cited above is not eligible to apply unless it has been authorized by a Federally recognized tribe to represent that tribe for purposes of Title VI. We recognize that this requirement will exclude most urban and off-reservation Indian organizations, but believe that the statute and legislative history discussed above clearly indicate the intent of the legislation to award grants only to tribal organizations which are the authorized representatives of Federally recognized tribes. If a Federally recognized tribe authorizes an urban or off-reservation tribal organization to be the tribe's sole representative for purposes of Title VI, that organization would be eligible to apply for a grant under this part.

4. *Issue: Which tribal organizations may apply for a Title VI grant, i.e., Must a tribal organization be the governing body of the tribe?* A number of commenters questioned whether the NPRM required an applicant under Title VI to be the governing body of the tribe.

AoA response: The definition of "tribal organization" in the NPRM, which is taken from the Indian Self-Determination and Education Assistance Act, permits three types of tribal organizations to apply: (1) The recognized governing body of a tribe; (2) any legally established organization of Indians which is controlled, sanctioned or chartered by a governing body; or (3) is democratically elected by the adult members of the Indian community served by the organization. The Act further provides that an organization may perform services benefiting more than one tribe, with the approval of each tribe to be served.

The NPRM paralleled the statutory language. We think that each Indian tribe should decide which type of organization can best serve the older members of the tribe. Accordingly, this regulation permits the tribe to select the type of organization it wishes to represent the older members of the tribe.

5. *Issue: Funding tribal organizations under both Titles III and VI.* Section 1328.7(d) of the NPRM proposed that a tribal organization could not receive funds under both Titles III and VI for the duration of the grant. This restriction was based on Section 604(f) of the Act, which provides that whenever the Commissioner approves an application for a tribal organization, that organization "may not receive funds under Title III." We received numerous comments on this proposed requirement in the NPRM. Most commenters supported a change in the NPRM language to allow a tribal organization to be funded under both Titles III and VI. Many based their recommendation on a concern for the population in the tribal organization's service area who would not be eligible to be served by a Title VI grantee. (Indians under sixty, or those who are not members of a Federally recognized tribe, non-Indians living in the service area would all be ineligible under Title VI even if they were married to eligible Indians. (See below for discussion of nutrition exception.)). They were concerned that if a tribal organization chose to apply for a Title VI grant, those individuals who could not be represented by the tribal organization would be without social and nutrition services unless a State or area agency which was responsible for serving those people could subgrant or contract with the Title VI organization to provide the services. A few commenters, including one national Indian organization, recommended that a tribe be restricted to receiving funds either under Title III or Title VI, but not both. Considerable concern was also expressed that a requirement for separate tribal

[1] 95th Cong. 2nd Sess. Senate Committee on Human Resources. Rept. No. 95-855, p. 17.

organizations under Titles III and VI to serve the same Indian community would create duplication of facilities or equipment and waste scarce resources.

AoA response: In reviewing this provision of the NPRM, AoA carefully examined the statute and its legislative history. There are two references in the committee reports explaining the situations that Congress intended to prohibit under Section 604(f). The Senate report cited above explained the intent of the restriction as follows:

"The committee bill requires that an Indian tribe applying for direct funding must continue to operate programs under this title for one year. This is to prevent a tribal organization from taking the option for direct funding, and then deciding within a short period of time to revert to a social services program under the title III framework." [2]

We think that this legislative history indicates that the restriction placed on a tribal organization was meant to be an administrative safeguard to prevent a single tribal organization from vacillating between funding sources within a single project period.

The conference report added a further explanation: "The Senate amendments further required that a tribal organization receiving funds under this title receive a grant for not less than one year during which time Title III social services funds shall not also be awarded to provide services to the tribal organization." [3] Although the conference explanation could be read to prohibit subgranting or contracting by an area agency with a Title VI tribal organization to provide services on behalf of the area agency to its Title III participants residing in the Title VI service area, we do not believe this is the required reading.

Title III social services are not provided to tribal organizations, but rather to individual older persons. If we permitted a tribal organization to be a Title III service provider, it would not be providing Title III services to the same individuals whom it represented and served under Title VI. The additional statutory provisions discussed below indicate that Congress' main concern in enacting these funding restrictions was to ensure that the same individual Indians not receive services under both Titles. Accordingly, we have concluded that the provision of services under Titles III and VI by the same tribal organization to different individuals would be allowable, since it is not an activity that the legislative history indicates that Congress intended to prohibit.

We want to make very clear, however, that a tribal organization providing services under both III and VI must take whatever steps are necessary to ensure that the same individuals do not receive services under both Titles. Furthermore, those tribal organizations which receive funds under both Titles III and VI must administer the funds in accordance with the applicable provisions of the title under which those funds are received, and must allocate costs of any shared equipment and facilities.

AoA believes that the availability of funding from Title III and Title VI will promote the provision of social and nutrition services to all older individuals in the service area.

6. *Issue: Restrictions on individuals receiving services under both Titles III and VI.* Section 1328.31(b)(4) of the NPRM included a requirement "that the tribal organization has a mechanism to assure that older Indians receiving services under Title VI will not receive services under Title III for the duration of the grant." Numerous commenters objected to or questioned the use of the word "mechanism." Other commenters pointed out that services under Title III are so often sparse and inadequate that a tribal organization should be permitted to use Title VI funds to augment the Title III program. Some commenters recommended that Title III and VI funds be used for the same individual as long as the Title VI funds are used for different services than those provided under Title III.

AoA response: After careful review, we have concluded that the Act does not permit an individual to receive services under both Titles III and VI. As we explained above, we think that Section 604(f) of the Act, prohibits the tribal organization from receiving funds under Title III to serve individuals whom it represents under Title VI. Furthermore, section 604(d) requires the Commissioner to withhold from a State's allotment an amount attributable to older Indians in the State who will be served under Title VI. Also, section 602(a)(3) requires as a basic eligibility criterion that a tribal organization must assure that older Indians served under Title VI will not receive services under Title III. We think it is clear that this statutory language is intended to prevent the same individual from receiving services under both Titles and from being counted twice for purposes of distributing funds under the Act.

For these reasons, we have retained this provision of the NPRM. An individual may not receive services under both Titles III and VI, even though the services may be different. However, we have modified the language of the final regulations to clarify what this provision means. Section 1328.39(b) requires a tribal organization to provide an assurance in its preapplication that it has methods and procedures to ensure that Indians receiving services under this part do not also receive services under 45 CFR Part 1321 for the duration of the grant under this part. We do not want to specify in these regulations what these methods and procedures must be. However, an example could be that the tribal organization uses the tribal statistics that were certified by BIA and provides the names of individuals to be served under this part to the Area Agency(ies) whose planning and service area(s) include the tribal organization's service area.

7. *Issue: May the spouse of an eligible older Indian receive services under this part?* Neither Title VI of the Act nor the NPRM include specific provisions regarding the availability of services to the spouse of an eligible older Indian. Numerous comments were received, strongly recommending that the spouse of an eligible Indian be permitted to receive services under this part.

AoA response: Section 603 of the Act provides that the Commissioner may make grants for social and nutrition services for Indians who are aged 60 and older. This language would seem to limit eligibility for all services under this part to Indians aged 60 and older. However, in section 601, the Act sets forth the basic purpose of Title VI which is to provide social and nutrition services to Indians comparable to services provided under Title III. Further, in Section 604(a)(8), the Act requires that nutrition services under this part be provided substantially in compliance with Part C of Title III. Part C incorporates Section 307(a)(13) of the Act, which provides that nutrition services be made available to individuals, aged 60 and older, and to their spouses. Thus, Section 307 of the Act establishes both a minimum eligibility criterion, and an exception to that criterion: that is, the Act establishes age 60 or older as a minimum age for eligibility for nutrition services under Title III, but allows the spouse of an eligible older individual to receive services regardless of his or her own age.

We believe the Act could be interpreted to allow the same exception for Title VI participants. While Section 603 provides that services under this part are for Indians aged 60 or older, we think that Section 604(a)(8), by requiring

[2] 95th Cong. 2d Sess. Senate Rept. No. 95-855, p. 17.

[3] 95th Cong. 2d Sess. House Conf. Rept. No. 95-1618, p. 82.

that nutrition services be provided in substantial compliance with the requirements of Title III, could be read as providing a basis for an exception to that rule in the case of nutrition services.

If we excluded the spouses of eligible older Indians from nutrition services unless they were also 60 or older and members of Federally recognized tribes, we would be significantly changing the way in which nutrition services are provided to older Indians, and would be denying nutrition services to many people who now receive them. Under Title III, spouses of Indians 60 and older are now receiving nutrition services even though the spouses are under 60. They could not continue to be served under Title III if their spouses received services under Title VI, since their Title III eligibility is dependent on their spouses' receipt of Title III services. There is no indication in the legislative history that Congress intended such a result; on the contrary, Section 601 clearly indicates that the purpose of the Act was to make services available under Title VI comparable to those available under Title III. Accordingly, we have provided in these final regulations that spouses of Indians 60 and older may receive nutrition services under Title VI.

8. *Issue: Service Area. Use of the term "Reservation" in defining "service area."* In § 1328.3 of the NPRM, we proposed the following definition of service area:

"Service area" is that geographic area in which the tribal organization provides social and nutrition services to the older Indians residing there. It must be either a part of a reservation, an entire reservation, several reservations, or areas designated by the Bureau of Indian Affairs as near reservation lands.

The NPRM proposed further at §1328.9(m) that a tribal organization could provide services only in its approved service area. A number of commenters expressed concern about our service area requirement and our definition. Most of the concerns about this requirement arose through our use of the word "reservation." Many commenters expressed concern about our use of this term since some Indian lands are not called "reservations." Others noted that many older Indians live off reservation on lands not officially designated by the BIA as "near reservation lands."

AoA response: We think that use of a service area will encourage effective planning and use of Title VI services, and will help ensure that older Indians receiving services under Title VI do not also receive them under Title III. In developing the proposed regulations, we sought to build an administrative base for Title VI that was similar to that in Title III. We proposed a requirement for a service area in order to parallel the Title III planning and service area. Since our use of the term "reservation" created confusion and in some cases would exclude numbers of older Indians from Title VI services, we have revised the definition of service area to read as follows:

"Service area" is that geographic area, approved by the Commissioner, in which the tribal organization provides social and nutrition services to the eligible older Indians residing there.

A service area may include all or part of a reservation and any portion of a county or counties which have a common boundary with the reservation. This definition was derived from the definition of service area established by the Indian Health Service for purposes of contract health services. We felt that broadening the definition of service area to include counties contiguous to a reservation would allow the tribal organization to provide services to individuals living off reservation lands but who would otherwise be eligible for the Title VI program.

Section 1328.9 of the regulations further specifies that the Commissioner may, if requested by a tribal organization, approve a service area which includes non-contiguous areas, if he or she finds that the designation of such an area will further the purposes of the Act and will provide for more effective administration of the program by the tribal organization concerned. In addition, the Administration on Aging has expanded the definition of "Reservation," pursuant to 25 CFR 20.1(v) and 45 CFR 1336.1, so as not to exclude any category of Indian lands. The definition of "reservation" is as follows:

"Indian reservation" means the reservation of any Federally recognized Indian tribe, including any band, nation, pueblo, or rancheria, any former reservation in Oklahoma, any community or non-trust land under the jurisdiction of an Indian tribe, including a band, nation, pueblo, or rancheria, with allotted lands or lands subject to a restriction against alienation imposed by the United States, and Alaskan Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688).

9. *Issue: Service Area. Representing "all or part" of a tribe's elders.* Several commenters expressed concern over our permitting a tribal organization to choose to serve only part of the eligible older Indians within the service area, or to limit the service area to only part of the reservation. They expressed concern that this policy might create problems in jurisdiction between tribal organizations and area agencies if a tribal organization designated only part of a reservation as its service area.

AoA response: We believe strongly that the tribal organization, as the entity responsible both to the tribe and to AoA for the administration of its Title VI grant, ought to have the flexibility to establish its service area based on the number of the eligible older Indians whom it can serve effectively. Tribal organizations and area agencies will need to coordinate Title III and VI planning and delivery regardless of the size of a tribal organization's service area, to ensure that those ineligible for Title VI still receive services under the Act and to ensure that individual older Indians do not receive services under both Titles at the same time. While AoA will assume primary responsibility for technical assistance to tribal organizations, we expect area agencies and State agencies to cooperate fully with tribal organizations to ensure that Title VI is fully implemented and does not result in a decrease of services to older Indians under the Act. We do not think that permitting a tribal organization to designate only part of a reservation will significantly increase coordination or jurisdictional problems, and believe a tribal organization should only attempt to represent and serve those Indians it can serve effectively with the funds available. We want to stress that a tribal organization is responsible under § 1328.9(q) of the final regulation to provide services under this part in a fair and uniform manner to all older Indians in the service area, including members of other Federally recognized tribes who may be living there.

10. *Issue: What are the requirements for a needs assessment?* Section 1328.9(c) of the NPRM provided that the tribal organization must conduct a needs assessment. This requirement is based on Section 604(a)(1) of the Act. Section 1328.11(c) of the NPRM required a tribal organization to use the needs assessment as the basis for its decision to provide any of the optional services as well as determining the amount or scope of *all* services to be provided under Title VI. Commenters wanted either guidelines or a specific format for a needs assessment.

AoA response. We have revised the regulations at § 1328.9(e) to clarify what we mean by a needs assessment. We intend that needs assessments be used to justify the types of services that will be provided under a Title VI grant, and

to establish the priority for those services. Needs assessments can be carried out in varying degrees of detail. While we do not want to require a given format, we do think there is an essential question to be answered in any needs assessment which is: "How does the tribal organization know that a specific service (or set of services) is needed by the elderly population in the service area?" To answer this, a tribal organization must first determine the needs in its service area; then describe how a service or set of services will meet these needs. Next, the tribal organization should describe how it went about defining these needs (survey, received many requests for this service, etc.) and what evidence exists concerning the extent of the problem.

This information should be detailed enough so the tribal organization can show in its application the extent to which the proposed services will serve the needs in the service area.

The information being required in the regulation is intended to describe what was *actually done* in defining problems. It is not intended to result in a mass of statistical data, and it should not require more than modest surveys, if any. A tribal organization may conduct its own needs assessment or use a study or assessment conducted by another agency. If other assessments or studies are used (of other tribes, or using broader data such as State or regional data) the tribal organization must explain the other studies to ensure that the needs defined in the study are applicable to the tribe and area under consideration for this grant.

11. *Issue: Must a tribal organization spend Title VI funds for each of the required services?* Section 604(a) (8) and (10) of the Act requires a tribal organization to provide assurances that nutrition, legal and ombudsman services, either will be delivered or made available directly or by way of grant or contract in substantial compliance with the provisions for those services in Title III. Section 604(a)(6) requires that a tribal organization must provide for establishing and maintaining information and referral services.

We proposed in § 1328.11(a) of the NPRM that a tribal organization must provide these four categories of services. Several commenters questioned the use of the term "provide" in the NPRM. They indicated that it was not clear whether a tribal organization would have to spend Title VI funds for each of the required services.

AoA response: AoA has consistently interpreted the phrases "provide" and "provide for" to differentiate between those Title III services for which an area agency must spend Title III funds, and those for which it must simply ensure that adequate funding is available from some source. We have adopted a similar approach under §§ 1328.21 through 1328.27 of these final regulations.

We think that the preferable reading of the requirements of 604(a) (8) and (10) that a tribal organization provide assurances that nutrition, legal, and ombudsman services will be delivered or made available "either directly or by way of grant or contract" is that the tribal organization must fund those services under its Title VI grant. We think these three services are basic to any services program under the Act. Since Section 604(a)(6) does permit a tribal organization to "provide for" information and referral services, we would not require a tribal organization to spend Title VI funds on those services if those services are in place and adequate, or if adequate services can be developed using other resources.

12. *Issue: Nutrition. Type and frequency of meals served.* Section 1328.15(c) of the NPRM required that "a hot or otherwise appropriate meal be provided at least once a day, five days a week." A number of commenters expressed concern about the requirement for frequency of meals. They indicated that at times adverse weather and great distances over which either meals or participants had to be transported made the five days a week rule impractical. Some commenters noted in particular the hardship this rule would impose in a State like Alaska with its sparsely populated communities.

AoA response: We have modified this provision to require that a hot or otherwise appropriate meal be provided at least once a day, five days a week except in those cases where the tribal organization, on the basis of its needs assessment, can justify less than five days a week. However, we want to clarify that the five day per week requirement means that the tribal organization must provide meals at least five days a week.

This does not mean that each congregate nutrition service site must operate five days a week; nor does it mean that every older Indian represented by the tribal organization must receive a meal five days a week. We recognize the circumstance of great distances which create problems in service delivery in places like Alaska. Depending on local circumstances, a tribal organization may arrange to deliver meals at home for two or more days at one time. In some instances, a tribal organization may choose to provide meals consisting of cold, frozen, dried, canned or supplemental foods with a satisfactory life storage. These types of meals may be considered "otherwise appropriate" if they meet the required one-third of the Recommended Dietary Allowance provision as specified in § 1328.21(b)(4).

13. *Issue: Nutrition. Availability of USDA for Title VI.* In the NPRM, we did not include reference to the USDA program of cash and/or commodity assistance to nutrition services. Section 311(a)(1) of the Act clearly establishes the right of nutrition services providers under Title III to receive surplus commodities or cash from the United States Department of Agriculture (USDA). However, no such explicit authorization appears in Title VI. Since both the Act and the legislative history were silent on this question, we were uncertain if the standard of comparability between Title VI and Title III services extended to the right to receive USDA assistance.

The absence of a provision to permit nutrition services provided under Title VI the same access to USDA assistance as Title III, generated the largest number of comments on this section of the regulations. All commenters agreed that Title VI nutrition services should receive equal consideration in terms of USDA assistance as do Title III nutrition services.

AoA response: Since the Department of Agriculture (USDA) is primarily responsible for implementing Section 311 of the Act and for deciding which organizations may receive commodity distribution and/or cash under Older Americans Act programs, we referred this issue to USDA for its review. USDA has determined that the Title VI program is eligible for the same kind of assistance in commodities or cash in lieu of support that USDA presently provides to the Title III program. USDA recommended language which we included in these final regulations in § 1328.21(d) specifying what a tribal organization must do to obtain assistance from USDA for nutrition services provided under Title VI.

14. *Issue: Ombudsman. General.* In § 1328.21(a) of the NPRM, we proposed that a tribal organization must provide an ombudsman program if a long-term care facility existed in the service area on reservation lands. One commenter objected to the language in the NPRM which required tribal organizations to provide an ombudsman program for long-term care facilities "on reservation lands," since some tribes do not have reservation lands.

AoA response: In response to this concern, we revised § 1328.27 of the final regulation to refer to long-term

facilities "subject to the jurisdiction of the tribe." The phrase "on reservation lands" has been deleted.

15. *Issue: Ombudsman. Coordination with Title III ombudsman services.* The largest group of commenters on this issue recommended that the regulations require that Title VI ombudsman services be coordinated with ombudsman services provided under Title III.

AoA response: In the preamble of the NPRM, we encouraged tribal organizations to enter into cooperative agreements with appropriate agencies to assure that older Indians residing in long-term care facilities in the State have the benefit of ombudsman services. Cooperative agreements could also assure that ombudsman services will be available to non-Indian residents of long-term care facilities under the jurisdiction of the tribe. In addition, § 1328.9(h) requires that the tribal organization coordinate, to the extent feasible, with other community agencies in the service area, including area agencies on aging, in planning and providing services to older Indians. We believe this requirement should be sufficient to ensure the effective delivery of ombudsman services. If further coordination requirements appear necessary in the future, we will revise both these regulations and Title III regulations to add those requirements.

16. *Issue: Ombudsman. Scope of the Ombudsman Program:* Several commenters suggested that the scope of the ombudsman program be expanded to include services to individuals who are not residents of long-term care facilities, such as homebound individuals, and to include services not directly related to long-term care, such as assisting elderly individuals to obtain State and community services, or assisting tribes to develop temporary care facilities.

AoA response: Section 1328.27 of the final regulation indicates those ombudsman services which a tribal organization must provide if there is a long-term care facility in the service area that is subject to the jurisdiction of the tribe. Although the required ombudsman services are limited to concerns associated with long-term care facilities, the regulation does not prohibit a tribal organization from providing a broader range of ombudsman services. This provision is consistent with § 1328.17 which indicates that the tribal organization may provide a broad range of optional services designed to meet the social and nutrition needs of older Indians in the service area.

17. *Issue: Ombudsman. Cultural needs.* Several commenters stressed the need to reference the cultural needs of older Indians residing in long-term care facilities.

AoA response: Section 1328.27(b)(1) has been expanded to allow for the investigation of complaints regarding administrative actions which are detrimental to the residents. An exploration of any needs or problems, including those with a cultural basis, would come under this provision.

18. *Issue: Legal Services Clarification.* Commenters sought clarification of the phrase in the NPRM, § 1328.17(a) if "* * * legal services are already being provided to older Indians in the service area, funds under this part may be used only to supplement these services." In particular, commenters questioned whether this included legal services that had been provided under Title III. Commenters also recommended coordination between legal services provided under Titles III and VI. Other commenters sought clarification on whether a tribal organization had to provide legal services directly or by supporting existing legal services programs.

AoA response: In order to clarify that funds under this part are to be in addition to funds currently being expended, we have revised the language of the NPRM to read as follows:

> Legal services provided with funds under this part must be in addition to and not in substitution for, any legal services provided to older Indians represented by the tribal organization, except that legal services which had been provided for under Title III of the Act would not continue to be available to older Indians served under this part.

While title VI legal services must be in addition to services available from non-Title III sources this requirement would not preclude coordination with legal services available under Title III. For example, the same provider could be used. Furthermore, we stress that tribal organizations and area agencies must coordinate, to the extent feasible, in the provision of all services including legal services.

In response to whether the tribal organization can provide legal services directly, we want to stress that it may. However, it must meet all the provisions of § 1328.23.

19. *Issue: Authority for senior center construction.* Section 604(a)(9) of the Act provides that whenever an application under Title VI contains provisions for the acquisition, alteration, or renovation of facilities to serve as multipurpose senior centers, the application must contain assurances of compliance with the provisions of Section 307(a)(14)(A) (i) and (iii), 307(a)(14)(B), and 307(a)(14)(C) of the Act. A comment was made concerning our authority to fund construction since Section 604(a)(9) does not include explicit reference to the construction of facilities for use as multipurpose senior centers.

AoA response: Because Section 603 authorizes payment for the cost of social services, which are defined in Section 321(b) as including construction of senior centers, we included in § 1328.23(b) of the NPRM language that would have permitted both purchase and construction under Title VI awards. We think that the preferable interpretation of the statute is to exclude construction since there is no explicit reference in Title VI allowing it. Therefore, these regulations permit only alteration, renovation or acquisition of facilities.

20. *Issue: Lack of requirement in NPRM for a comprehensive and coordinated service delivery system.* Some commenters indicated that the development of comprehensive and coordinated services should be required under Title VI as it is under Title III.

AoA response: Congress provided for the development of comprehensive and coordinated service systems in describing the purposes of Title III, but did not carry forth the same provision in describing the purposes of Title VI. Section 306(a)(1) of the Act requires area agencies to provide for a comprehensive system which assures the coordinated delivery of a full range of essential services to older citizens. In our view, the development of comprehensive and coordinated services systems for older Indians, while not required under Title VI, is consistent with the general purposes of the Act and is to be encouraged.

21. *Issue: Special services.* Some commenters questioned our inclusion of special services such as road clearing, when a tribal organization was not required to provide for the full range of the more traditional title III social services. They stressed that special services could be funded under other programs.

AoA response: We included examples of special social services to Indians to illustrate that the tribal organization would have the flexibility to fund those services most needed by the older Indians in its service area to function independently in a home environment. We will monitor closely a tribal organization's funding of such "non-traditional" services, and will only approve applications for funds for those services if we think that the provision of those services will further the purposes of Title VI.

22. *Issue: Prohibition against supplantation.* In the NPRM, we did not propose any prohibition against supplanting other resources with Title VI funds. Considerable comment on this issue has been received, including comments from a national Indian organization, focusing on the concern that Title VI money may be used to substitute for current efforts made by tribes on behalf of their older members. This is obviously not the intent of title VI. Commenters suggested that since a maintenance of effort is required under Title III that a similar requirement should be in Title VI in order to assure "comparability."

AoA response: Title VI does not contain an explicit prohibition against supplantation comparable to the maintenance of effort requirement in Title III, but Section 604(a) does require that an application "provide for the use of such methods of administration as are necessary for the proper and efficient administration of the program to be assisted." We think that there is merit in the suggestion of commenters to establish in title VI a prohibition against supplanting other resources being used by the tribe for aging programs with Title VI funds, and that a non-supplantation requirement is necesssary for the Title VI program to be efficiently administered and to effectuate the purpose of the program.

We believe the basic purpose of Title VI provides for this requirement. In passing Title VI, the Congress determined that the level and quality of services being provided to older Indians was inadequate. The purpose of Title VI is to offer additional resources to meet the social and nutritional needs of older Indians.[4] If Title VI funds are used to replace other resources, the basic intent to increase the level of service is defeated. We, therefore, included in these regulations at § 1328.15 a rule that prohibits the use of Title VI funds by a tribe to replace other non-Title III funds over which the tribe has jurisdiction that were previously used for aging programs.

23. *Issue: Lack of requirement in NPRM for an advisory council.* The NPRM did not propose a requirement for an advisory council. We did not include this because the Act itself did not specifically require this for Title VI grantees. We received many comments concerning the failure to include this requirement, all of which were in favor of requiring an advisory council.

AoA response: Although Title VI does not specifically require an advisory council for Title VI grantees, Section 604(a) of the Act requires an application to "provide for the use of such methods of administration as are necessary for the proper and efficient administration of the program to be assisted." We believe that an advisory council is an important means for ensuring proper administration of Older Americans Act programs. Accordingly, we imposed an advisory council requirement for State agencies in the Title III regulations (Section 1321.47), and are also imposing one for tribal organizations under these final regulations.

24. *Issue: Lack of requirement in NPRM for contributions.* The NPRM did not include a provision for contributions. Contributions are not specifically provided for under Title VI. We received many comments on this issue, all of which favored inclusion of a provision regarding contributions. It was pointed out that many older Indians who have made contributions in the past have expressed a desire to continue to contribute to the support of the programs which serve them.

AoA response: AoA had not intended to exclude the possibility of having contributions. Therefore, we have included a new § 1328.13 to clarify the role of contributions in a Title VI program. This section parallels the Title III regulation at § 1321.111 and requires the tribal organization to provide each older Indian with a free and voluntary opportunity to contribute to the cost of the service. However, the section further specifies that no older Indian may be denied a service because he or she will not or cannot contribute to the cost of the service.

25. *Issue: Application approval and funding process.* In §§ 1328.35 and 1328.37 in the NPRM, we proposed a series of application requirements and provided that the Commissioner would notify the tribal organization whose application was approved of the amount, duration, and effective date of the grant award. Several commenters suggested that we publish an allocation formula for Title VI grantees. Since Title VI is not a formula grant program, we do not think that an allocation formula is appropriate for these grants. However, we would like to explain in more detail how we expect that we will approve and fund Title VI applications.

We have expanded the application requirements proposed in the NPRM to make clear that the application and supporting documentation must demonstrate that the tribal organization will satisfactorily meet its management and service delivery responsibilities, and that the service program it proposes will further the purpose of the Act, and is realistic in light of the funds available.

We have also added several general assurances to the application section.

These regulations require that a tribal organization submit as a part of its application a budget request that specifies the amounts requested and the activities that the tribal organization will carry out with the amounts requested.

Part of the process for determining whether an application is approvable will be an evaluation of the tribal organization's proposed budget in light of the activities it proposes and the funds available. We will review the applications and decide whether they meet the criteria for approval, and whether the application justifies the amounts requested. If an application does not meet the criteria for approval, after technical assistance is provided for as specified in § 1328.47, the Commissioner will disapprove the application and no funds will be awarded. If the application is approvable, but we think that the tribal organization has not adequately documented its need for the amount of funds requested, we may not award the full amount requested.

If the Commissioner approves applications that request amounts in excess of the funds appropriated, he or she will choose some equitable procedure for awarding the funds, such as reducing all awards for approved applications by a specified percentage, or giving each grantee a minimum base grant and awarding the remainder on some other basis.

If, in any fiscal year, these procedures result in grant awards which would be too small to effectively implement Title VI programs, the Commissioner may review and rank all approved applications and fund those that demonstrate the greatest capacity to provide effective and efficient delivery of services. The Commissioner may also award a certain percentage of the appropriation to a limited number of grantees above the basic grant awards to support projects or programs of national significance. The Commissioner will apply the same method for awarding funds to all applications for a given budget or project period. A budget period is generally for a 12 month period. A project period may be equal to or longer than a budget period.

The tribal organization will be required to submit a new application for each budget period for which it requests funds. If the Commissioner specifies a project period that is longer than budget periods, the tribal organization will be asked to submit an application for

[4] 95th Cong. 2nd Sess. Senate Committee on Human Resources, Rept. No. 95-855, p. 16-17.

individual budget periods within a project period.

Approval of an application for a specific project or budget period in no way commits the Commissioner to approve a subsequent application from the same tribal organization. Tribal organizations that have successfully performed under a previous Title VI grant may be able to demonstrate that they have greater capability than an organization that has not received a Title VI grant, but will be required to compete for available funds at the beginning of each new project period. We will not, however, generally accept applications from new tribal organizations during a specific project period.

Should additional appropriations become available, the Commissioner will announce the availability of the funds through an announcement in the Federal Register. If additional appropriations are not available, first priority will be given to those applicants that have successfully performed under a previous Title VI grant in order to assure continuation of services.

Of course, each tribal organization is entitled to a hearing under § 1328.49 on denial of its application for a new project or budget period.

26. *Issue: Hearing procedures.* Section 1328.41 of the NPRM proposed hearing procedures for tribal organizations whose applications are disapproved that were modeled on the Indian Health Service regulations at 42 CFR 36.214 for disapproval of contract proposals. We particularly invited comment on the appropriateness of these procedures. Some commenters suggested that the regulations ought to be revised somewhat to allow the Commissioner or designated official some flexibility in deciding the type of evidence to be presented at the hearing, and a more flexible timeframe for reaching a decision. We have made these revisions, and several others designed to ensure an adequate record for the hearing, and fair and expeditious conduct of the hearings.

Non-Regulatory Issues

27. *Issue: Minimum age requirement.* Numerous comments were received which addressed the issue of the minimum age requirement for establishing eligibility to receive services under Title VI. Most commenters felt that due to the shorter average life expectancy of Indian people, as compared to the general population, the requirement that participants be 60 years or older is not realistic, and is unresponsive to the needs of tribal elders who have not attained 60 years of age. The minimum age is established by section 602(a)(1) of the Act which requires that the tribal organization represent at least 75 individuals "60 years of age or older." This provision is repeated in section 603 which authorizes Title VI grants to pay for social and nutrition services "for Indians who are aged 60 and older." Since the minimum age requirement is a statutory provision, it cannot be changed through regulation.

28. *Issue: Requirement that a tribal organization must represent at least 75 older Indians.* A number of commenters objected to the requirement that a tribal organization represent at least 75 older Indians. Many felt that this requirement imposed a hardship on small tribes. Although Title VI allows tribes the option of forming consortia to meet this requirement, it was noted that for many tribes, geographic barriers preclude the possibility of consortia arrangements. This requirement cannot be changed through the regulatory process as Section 602(a)(1) of the Act requires that the tribal organization represent at least 75 individuals who have attained 60 years of age or older.

29. *Issue: Prohibition on individuals receiving services under Titles III and VI.* We discussed this issue above under issue 6 and mention it briefly here as a change would require legislative action. Numerous commenters expressed concern that older Indians served under Title VI would be prohibited from receiving services under Title III. It was widely recommended that individuals be eligible to receive services under both Titles III and VI, provided such services were not duplicative. This provision cannot be revised in the regulation as Section 602(a)(3) of the Act explicitly states that "individuals to be served by the tribal organization will not receive for the year for which application under this Title is made services under Title III."

30. *Issue: Title VI services to non-Indians.* Several commenters felt that the tribal organization should be allowed to provide Title VI services to non-Indians residing within the service area. However, Section 601 of the Act stipulates that the purpose of Title VI is to provide social and nutrition services for Indians. This provision is also found in Section 603 which authorizes Title VI grants to pay for social and nutrition services for Indians aged 60 and older. This statutory language restricts the provision of services under Title VI to Indian recipients.

31. *Issue: Transportation and Multipurpose Senior Centers as Mandatory Services.* Several commenters felt that the provision of transportation services and the establishment of multipurpose senior centers should be included in the regulations as mandatory services under Title VI. However, Section 604(a) of the Act, which indicates those services which the tribal organization must provide or provide for, does not require that these services be provided. Since these services are not required by statute, we have concuded that it is not appropriate to make such services mandatory by regulation.

32. *Issue: Administrative rules for AoA.* Another category of commenters raised issues which are not appropriately addressed in regulations. These issues concerned administrative procedures and policies internal to AoA, ranging from the determination of time frames for approving applications to the establishment of an Indian desk within the agency. These concerns will be addressed through administrative mechanisms.

(Title VI of the Older Americans Act (42 U.S.C. 3057))

Dated: May 23, 1980.

Robert Benedict,

Commissioner on Aging.

Approved: May 29, 1980.

Cesar A. Perales,

Assistant Secretary for Human Development Services.

Approved: June 30, 1980.

Patricia Roberts Harris,

Secretary of Health and Human Services.

45 CFR Chapter XIII, Subchapter C is amended to add a new Part 1328 to read as follows:

PART 1328—GRANTS TO INDIAN TRIBES FOR SOCIAL AND NUTRITIONAL SERVICES

Sec.

Authority: Title VI of the Older Americans Act (42 U.S.C. 3057)

Introduction

§ 1328.1 Basis and scope.

This part implements Title VI of the Older Americans Act, as amended, by establishing the requirements that an Indian tribal organization must meet in order to receive a grant to provide social and nutrition services to older Indians, and to acquire, alter, or renovate a facility for use as an Indian multipurpose senior center. This part also prescribes application and hearing requirements and procedures for these grants.

§ 1328.3 Definitions.

"Act" means the Older Americans Act of 1965, as amended (42 U.S.C. 300 et seq.).

"Area Agency" means the agency designated by the State agency in a planning and service area to develop and administer the area plan for a comprehensive and coordinated system of services for older persons.

"Budget Period" means the intervals of time into which a period of assistance (project period) is divided for budgetary and funding purposes.

"Commissioner" means the Commissioner on Aging of the Administration on Aging.

"Department" means the Department of Health and Human Services.

"Indian reservation" means the reservation of any Federally recognized Indian tribe, including any band, nation, pueblo, or rancheria, any former reservation in Oklahoma, any community or non-trust land under the jurisdiction of an Indian tribe, including a band, nation, pueblo, or rancheria, with allotted lands or lands subject to a restriction against alienation imposed by the United States, and Alaskan Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688).

"Indian tribe" means any Indian tribe, band, nation, or organized group or community, including any Alaska Native Village, regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians (25 U.S.C. 450b).

"Legal Services" means legal advice and representation by an attorney (including to the extent feasible, appropriate counseling or other assistance by a paralegal or law student under the supervision of an attorney), and includes counseling or representation by a non-lawyer where permitted by law, to older Indians with economic or social needs.

"Long-term care facility" means any (1) Skilled nursing facility as defined in Section 1861(j) of the Social Security Act; (2) Intermediate care facility as defined in Section 1905(c) of the Social Security Act; (3) Nursing home as defined in Section 1908(e) of the Social Security Act; and (4) Other similar adult care homes as defined by the tribal organization, and approved by the Commissioner in the application for a grant under this part.

"Non-profit" as applied to any agency, institution or organization means an agency, institution, or organization which is owned and operated by one or more corporations or associations with no part of the net earnings benefiting any private share holder or individual.

"Older-Indians" means a member of an Indian tribe who is 60 years of age or older.

"Project period" means the total time for which a project is approved for support, including any extensions.

"Service area" is that geographic area approved by the Commissioner in which the tribal organization provides social and nutrition services to the older Indians residing there.

"Service provider" means any entity that is awarded a subgrant or contract from a tribal organization to provide services under this part.

"State Agency" means the single State agency in each State designated to develop and administer the State plan under Title III of the Act and to be the focal point on aging in the State.

"Tribal organization" means the recognized governing body of any Indian tribe, or any legally established organization of Indians which is controlled, sanctioned or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: *Provided*, That in any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each Indian tribe shall be a prerequisite to the letting or making of the contract or grant. (25 U.S.C. 450b).

§ 1328.5 Applicability of other regulations.

The following regulations in Title 45 of the *Code of Federal Regulations* apply to all activities under this part:

(a) Part 74—Administration of Grants;

(b) Part 75—Informal Grant Appeals Procedures;

(c) Part 84—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Benefits from Federal Financial Participation;

(d) Part 90—Nondiscrimination on the Basis of Age; and

(e) Part 16—Department Grants Appeal Process.

Tribal Organization Requirements

§ 1328.7 Tribal organization eligibility.

(a) A tribal organization is eligible to apply for a grant under this part only if it—

(1) Is authorized by an Indian tribe to represent it for purposes of Title VI;

(2) Represents 75 or more older Indians who will receive services under the Act only under this part;

(3) Demonstrates its ability to deliver social and nutrition services to older Indians by either—

(i) Documenting that it effectively administered social or nutrition services within the last 3 year, including an evaluation, if conducted; or

(ii) Documenting its current organizational capacity to deliver those services; and

(4) Assures that the older Indians it represents under its grant do not receive services under Title III of the Act for the duration of the grant.

(b) A tribal organization may represent older Indians from more than one tribe.

(c) An Indian tribe may authorize only one tribal organization to apply for a grant under this part.

(d) A tribal organization may not provide services funded under 45 CFR Part 1321 to any older Indian represented by the tribal organization under this part.

§ 1328.9 Tribal organization responsibilities.

A tribal organization, must—

(a) Propose the geographic boundaries of its service area. A service area may include all or part of a reservation and any portion of a county or counties which have a common boundary with the reservation. Older Indians in the service area may receive services only under this part. A tribal organization

may propose a service area which includes non-contiguous areas if the designation of such an area will further the purpose of the Act and will provide for more effective administration of the program by the tribal organization;

(b) Establish an advisory council as specified in § 1328.11;

(c) Provide population statistics, as specified in §§ 1328.39 and 1328.43;

(d) Develop and submit a preapplication as specified in § 1328.39;

(e) Use a needs assessment to determine the kinds and levels of services needed by older Indians in the service area who are represented by the tribal organization for purposes of this part;

(1) At a minimum the needs assessment must determine—

(i) What the needs are in the service area for social and nutrition services;

(ii) What services or set of services would meet the needs; and

(iii) How the services or set of services proposed in the application meet the needs;

(2) The tribal organization must document the methods and findings of the needs assessment. If the tribal organization uses a needs assessment done for a State, region or area it must show how it decided the findings were applicable to the older Indians represented under this part;

(f) Develop and submit an application that meets the requirements specified in § 1328.43;

(g) Provide for outreach efforts to identify older Indians and inform them of the availability of services under this part. These efforts may be provided for through coordination with other community agencies;

(h) Coordinate, to the extent feasible, with other community agencies including area agencies on aging, in the service area, in planning and providing services to older Indians;

(i) Provide for an annual evaluation, by a non-profit private organization selected by the tribal organization, of the activities and projects funded under this part;

(j) Give preference, wherever feasible, to employing older Indians for full/and part-time staff positions to carry out activities under this part;

(k) Provide each older Indian with a free and voluntary opportunity to contribute to the cost of the services as specified in § 1328.13;

(l) Have procedures to ensure that no information about an older Indian or obtained from an older Indian is disclosed in a form that identifies the person without the informed consent of the person or his or her legal representative, unless the disclosure is required by court order, 45 CFR 74.24, or for other program monitoring by authorized Federal monitoring agencies;

(m) Subject to the confidentiality requirements in paragraph (l) of this section, make available at reasonable times and places, to all interested parties, all information and documents developed or received by the tribal organization in carrying out its responsibilities under this part. The tribal organization is not required to disclose those types of information or documents that are exempt from disclosure by a Federal agency under the Federal Freedom of Information Act, 5 U.S.C. 552;

(n) Represent the interests of older Indians in the service area;

(o) Provide services under this part only in the service area specified in its approved application;

(p) Have a written agreement with the appropriate USDA unit, if the tribal organization elects to participate in the USDA commodities program as specified in § 1328.21;

(q) Provide services under this part in a fair and uniform manner to all older Indians in the service area consistent with their need, the requirements of the Act and this part, and the policies of the Administration on Aging;

(r) Provide reports in the form and containing information as specified by the Commissioner;

(s) Give the preferences and opportunities for training and employment to Indians in connection with the administration of its grant under this part as required under Section 7(b) of the Indian Self-Determination and Education Assistance Act;

(t) Ensure that all services under this part are provided without consideration of an older Indian's income and resources, or ability to pay for services; and

(u) Ensure full cooperation in any site visit made by representatives of HHS.

§ 1328.11 Advisory council.

(a) The tribal organization must establish an advisory council within 6 months after the date of the award under this part.

(b) The advisory council must be made up of more than 50 percent older Indians and include participants under this part.

(c) The tribal organization must use the advisory council in—

(i) Developing any subsequent Title VI application;

(ii) Implementing any grant under this part; and

(iii) Providing advice and guidance on matters concerning the older Indians represented under a grant under this part.

§ 1328.13 Contributions.

(a) *General rule.* A tribal organization must—

(1) Provide each older Indian with a free and voluntary opportunity to contribute to the cost of the service;

(2) Protect the privacy of each older Indian with respect to his or her contributions; and

(3) Establish appropriate procedures to safeguard and account for all contributions.

(b) *Contributions schedules.* A tribal organization may develop a suggested contribution schedule for services provided under this part. In developing a contribution schedule the tribal organization must consider the income ranges of older Indians in the community and the tribal organization's other sources of income for the service.

(c) *Failure to contribute.* A service provider that receives funds under this part may not deny any older Indian a service because the older Indian will not or cannot contribute to the cost of the service.

(d) *Contributions as program income.* Contributions made by older Indians are considered program income and are to be used for allowable costs of additional services under this part, either in the budget period in which they are earned or in the subsequent budget period.

§ 1328.15 Prohibition against supplantation.

The tribal organization must ensure that the activities provided under a grant under this part will be in addition to, and not in substitution for, comparable activities provided without Federal assistance.

Services Under This Part

§ 1328.17 Required and optional services.

(a) *Services that must be provided or provided for under a grant under this part.* A tribal organization that receives a grant under this part must—

(1) Provide the following services to the degree the services are assessed as needed under § 1328.9(e) and funds are available:

(i) Nutrition services, as specified in § 1328.21;

(ii) Legal Services, as specified in § 1328.23; and

(iii) Ombudsman services, as specified in § 1328.27.

(2) Provide for information and referral services as specified in § 1328.25 to the degree the service is assessed as needed under § 1328.9(e) and funds are available. If information and referral services are being provided from other

sources than under this part, the tribal organization must demonstrate in its application that the needs of the older Indians in the service area are being met for that category of service.

(b) *Other services that may be provided under a grant under this part.* The tribal organization may provide additional services necessary for the welfare of older Indians that are designed to meet the unique social and nutrition needs of older Indians in the service area. These services may include, but are not limited to, any of the following—

(1) Services which facilitate access, such as transportation, road clearing, outreach, escort, individual needs assessment and service management;

(2) Services provided in the community, such as continuing education, health and health screening, program development and coordination activities, advocacy, individual needs assessmment and service management, casework, counseling and assistance (concerning taxes, financial problems, welfare, the use of facilities and services, preretirement or second career), water services, temporary shelter, day care, protective services, health screening, services designed for the unique needs of the disabled, emergency services, including disaster relief services, residential repair and renovation, physical fitness and recreation services, services in helping to obtain adequate housing. Alteration, renovation, and acquisition of facilities to be used as multipurpose senior centers, are community services for purposes of this part;

(3) Services provided in the home, such as fuel assistance, home health, homemaker services, home health aide services, preinstitutional evaluation, casework, counseling, chore maintenance, visiting, shopping, readers, letter writing, telephone reassurance, home-delivered meals and nutrition education; and

(4) Services provided to residents of care providing facilities, such as casework, counseling, placement and relocation assistance, group services, complaint and grievance resolution and visiting. Care providing facilities include long-term care facilities as defined in § 1328.3, emergency shelters, and other congregate living arrangements.

(c) The tribal organization must use the needs assessment required under § 1328.9(e) to decide the levels of services it will provide under paragraph (a) of this section and which optional services and the level of those services it will provide under paragraph (b) of this section.

§ 1328.19 General services requirements.

(a) The tribal organization may provide services directly or subgrant or contract with a service provider to provide the services. Whether the tribal organization provides services directly or subgrants or contracts with a service provider, the tribal organization is responsible to ensure that all activities funded under this part are provided in compliance with the requirements of this part and other applicable regulations.

(b) If the tribal organization chooses to subgrant or contract with a service provider, it must—

(1) Give the preference to Indian organizations and to Indian-owned economic enterprises required by section 7(b) of the Indian Self-Determiantion and Education Assistance Act;

(2) Ensure that the service provider—

(i) Complies with all applicable service requirements specified in § 1328.17 through § 1328.37;

(ii) Provides the service effectively and at a reasonable cost; and

(iii) Meets any applicable State and local licensure requirements to provide these services.

§ 1328.21 Nutrition services.

(a) *General rule.* The tribal organization must provide nutrition services to older Indians at home or in a congregate setting, and may provide nutrition services to the spouses of older Indians.

(b) *Food requirements for all nutrition services.* The tribal organization must ensure that—

(1) Appropriate procedures to preserve nutritional value and food safety are followed in purchasing food, and preparing and delivering meals;

(2) Menus are provided to meet the particular health, religious, cultural and dietary needs of eligible older Indians, if feasible and appropriate. In determining feasibility and appropriateness, the provider must use the following criteria—

(i) There are sufficient numbers of persons who need the special menus to make their provision practical; and

(ii) The food and skills necessary to prepare the special menus are available;

(3) Appropriate food containers and utensils are available for use by disabled older Indians upon request; and

(4) Each meal served contains at least one-third of the current Recommended Dietary Allowances established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council.

(c) *Type and frequency of meals served.* (1) The tribal organization must use the needs assessment specified in § 1328.9(e) to decide whether to provide the meals at home or in a congregate setting or both.

(2) The tribal organization must ensure that hot, or otherwise appropriate meals are provided at least once a day, five days a week except in those cases where the tribal organization, on the basis of its needs assessment, can justify less than five days a week.

(d) *USDA assistance for nutrition services.* (1) The tribal organization may elect to receive all or a portion of its entitlement available under Section 311 of the Act in cash or commodities.

(2) To receive commodities, the tribal organization must have an agreement with the United States Department of Agriculture's Food and Nutrition Service (FNS) to be a distributing agency, or with an agency of the State that has an agreement with the U.S. Department of Agriculture (USDA) for the distribution of food.

(3) To receive cash, the tribal organization must have an agreement directly with FNS.

(4) The tribal organization must comply with the requirements of 7 CFR Part 250 General Regulations and Policies-Food Distribution, for participation in the USDA programs.

(e) *Food Stamps.* Where applicable, the tribal organization must work with agencies responsible for administering the Food Stamp Program to facilitate participation of eligible older Indians.

§ 1328.23 Legal services.

(a) *Purpose.* The tribal organization must provide legal services to older Indians with social or economic needs. The purpose of legal services under this part is to increase the availability of legal aid to older Indians with social or economic needs in order to assist them to secure their rights, benefits and entitlement, and to assist them in achieving the objectives of the Act. Legal services provided with funds under this part must be in addition to, and not in substitution for, any other legal services provided to older Indians represented by the tribal organization, except that legal services which had been provided under Title III of the Act would not continue to be available to older Indians served under this part.

(b) *Conditions legal service providers must meet.* (1) A legal service provider must be either—

(i) An organization that receives funds under the Legal Services Corporation Act; or

(ii) An organization that has a legal services program or the capacity to develop one.

(2) Unless the tribal organization directly provides legal services, the tribal organization must award funds to the legal services provider(s) that most fully meet(s) the following standards. The legal services provider(s) must—

(i) Have staff with expertise in specific areas of law affecting older Indians with economic or social need; for example, public benefits, institutionalization and alternatives to institutionalization;

(ii) Demonstrate the capacity to provide effective administrative and judicial representation in the areas of law affecting older Indians with social or economic need;

(iii) Demonstrate the capacity to provide support to other advocacy efforts, for example, the long-term care ombudsman program;

(iv) Demonstrate the capacity to effectively deliver legal services to institutionalized, isolated, and homebound individuals;

(v) Have offices and/or outreach sites which are convenient and accessible to older Indians in the community; and

(vi) Demonstrate the capacity to obtain other resources to provide legal services to older Indians.

(3) Each legal service provider must—

(i) Make efforts to involve the private bar in legal services provided under this part, including groups within the private bar that furnish legal services to older persons on a pro bono and reduced fee basis;

(ii) Ensure that no attorney of the provider engages in any outside practice of law if the director of the provider has determined that the practice is inconsistent with the attorney's full-time responsibilities;

(iii) Ensure that while employed under this part, no employee and no staff attorney of the provider at any time—

(A) Uses official authority or influence for the purpose of interfering with or affecting the results of an election or nomination for office, whether partisan or nonpartisan;

(B) Directly or indirectly coerces, attempts to coerce, command or advise an employee of any provider to pay, lend, or contribute anything of value to a political party, or committee, organization, agency or person for political purposes; or

(C) Is a candidate for partisan elective office;

(iv) Ensure that while engaged in legal assistance activities under this part, no attorney engages in any voter registration activity;

(v) In areas where a significant number of clients do not speak English as their principal language, adopt employment policies that ensure that legal assistance will be provided in the language spoken by those clients;

(vi) Adopt a procedure for affording the public appropriate access to the Act, regulations and guidelines under this part, the provider's written policies, procedures, and guidelines, the names and addresses of the members of its governing body, and other materials that the provider determines should be disclosed. The procedure adopted must be approved by the tribal organization;

(vii) Ensure that legal services are not provided in fee generating cases, as defined in 45 CFR 1609.2 unless adequate representation is unavailable from private attorneys;

(viii) Ensure that no funds under this part are used to directly or indirectly engage in activities intended to influence the passage or defeat of any legislation by the Congress of the United States or any State or local legislative body or State proposals by initiative petition except where—

(A) Representation by a provider for a client is necessary with respect to such client's rights and responsibilities (except that no employee shall solicit a client in violation of professional responsibilities for the purpose of making such representation possible); or

(B) A governmental agency, legislative body, committee or member thereof requests the provider to testify, draft or review measures or to make representations to such agency, body, committee, or member, or is considering a measure directly affecting the activities of a provider under this part; and

(ix) Ensure that, while providing legal services, no employee of the provider knowingly engages in public demonstrations, picketing, boycotts, or rioting or civil disturbance or any illegal activities, except as permitted in 45 CFR 1612.2 and 1612.3.

(4) Each legal service provider that is not a Legal Services Corporation grantee must agree to coordinate its services with Legal Services Corporation grantees in order to concentrate legal services funded under this part on older Indians with economic or social needs who are not eligible for services under the Legal Services Corporation Act.

(c) *Case Priorities.* A legal service provider under this part may, with the approval of the tribal organization, set priorities for the categories of cases for which it will provide legal representation in order to concentrate on older Indians with economic or social needs. In setting case priorities, a legal service provider may consider the availability of staff resources in determining the extent of legal advice and representation to provide individual older Indians.

(d) *Information about income and resources.* A legal service provider may not require an older Indian to disclose information about income or resources as a condition for providing legal services under this part. A legal service provider may ask about an individual's financial circumstances as a part of the process of providing legal advice, counseling and representation, or for the purpose of identifying additional resources and benefits for which an older Indian may be eligible.

§ 1328.25 Information and referral services.

(a) The tribal organization must provide for information and referral services so that older Indians have reasonably convenient access to those services.

(b) If a significant number of older Indians in the service area do not use English as their principal language, the tribal organization must provide for information and referral services in the language those individuals speak.

(c) The tribal organization must establish or have a list of all services that are available to older Indians in the service area;

(d) The tribal organization must provide assistance to older Indians to help them take advantage of the available services; and

(e) The tribal organization must maintain a list of services needed or requested by the older Indians.

§ 1328.27 Long-term care Ombudsman services.

(a) *General rule.* If there is a long-term care facility in the service area that is subject to the jurisdiction of the tribe, a tribal organization must provide an ombudsman program that meets the requirements of paragraphs (b) through (f) of this section. The tribal organization may operate the ombudsman program directly, or by contract or other arrangement, with any public agency or private nonprofit organization, except that no tribal organization, public agency, or private nonprofit organization may operate an ombudsman program if it is—

(1) Responsible for licensing or certifying long-term care facilities or other residential facilities for older persons;

(2) An association, or an affiliate or agent of an association, of long-term care facilities for older persons; or

(3) The owner or operator of the long-term care facility(ies) to be served by the ombudsman program.

(b) *Appointing an ombudsman.* The tribal organization must assure that an individual is designated to serve as the long-term care ombudsman and that the following responsibility(ies) are delegated to the ombudsman—

(1) Investigate and resolve complaints made by, or for, older Indians residing in the long-term care facilities about administrative actions that may adversely affect their health, safety, welfare or rights. "Administrative action" means any action or decision made by an owner, employee or agent of a long-term care facility, or by a government agency, which affects the provision of services to residents covered by this section;

(2) Monitor the implementation of appropriate laws and policies relating to long-term care facilities; and

(3) Provide information to the tribal organization, and to the Commissioner on request, about problems of older Indians residing in long-term care facilities in the service area;

(4) Train volunteers and assist in the development of citizen organizations to participate in the ombudsman program, as feasible; and

(5) Carry out other activities consistent with the requirements of this section which the Commissioner determines appropriate.

(c) *Access.* The tribal organization must establish procedures to ensure that—

(1) The ombudsman program has appropriate access to the long-term care facility(ies) in the service area under the jurisdiction of the tribe and appropriate private access to residents in these facilities; and

(2) The ombudsman and the ombudsman's designees are given appropriate access to residents' personal and medical records.

(d) *Confidentiality and disclosure.* The ombudsman must establish procedures to protect the confidentiality and disclosure of residents' records and files. Those procedures must meet the following requirements:

(1) No information or records maintained by the ombudsman program are disclosed unless the ombudsman authorizes the disclosure; and

(2) The ombudsman does not disclose the identity of any complainant or resident unless—

(i) The complainant or resident, or a legal representative of either, consents in writing to the disclosure and specifies to whom the identity may be disclosed; or

(ii) A court orders the disclosure.

(e) *Reporting system.* A tribal organization must establish a reporting system to collect and analyze information on complaints and conditions in those long-term care facilities subject to the jurisdiction of the tribe for the purpose of identifying and resolving significant problems. The tribal organization must submit this information to the agency of the tribe responsible for long-term care facilities for the tribe and to the Commissioner in the manner prescribed by the Commissioner.

Indian Multipurpose Senior Centers

§ 1328.29 What senior center activities may be funded.

The tribal organization may use funds awarded under this part for the following activities:

(a) Acquiring, altering, leasing, or renovating a facility, including a mobile facility, for use as a center; and

(b) Staffing the center.

§ 1328.31 Definitions.

For purposes of § 1328.29 and §§ 1328.33 through 1329.37—

(a) "Altering" or "renovating" means making modifications to or in connection with an existing facility which are necessary for its effective use as a center. These may include restoration, repair, or expansion which is not in excess of double the square footage of the original facility, and all physical improvements; and

(b) "Acquiring" means obtaining ownership of an existing facility for use as a multipurpose senior center.

§ 1328.33 Use requirements.

(a) The tribal organization must have sufficient funds to effectively use a facility that it acquires with funds under this part.

(b) The tribal organization must ensure that a facility acquired for use as a center will be used for this purpose for at least 10 years from the date of acquisition. This requirement supercedes the analogous requirements in 45 CFR 74.134. The Commissioner may waive this requirement in unusual circumstances.

(c) The United States Government is entitled to recapture a portion of Federal funds from the tribal organization if within 10 years after acquisition—

(1) The owner of the facility ceases to be a public or non-profit private agency or organization; or

(2) The facility is no longer used for multipurpose senior center activities.

(d) The amount recovered under paragraph (c) of this section is that proportion of the current value of the facility equal to the proportion of Federal funds contributed to the original cost.

(e) In the case of purchase, the tribal organization must provide reasonable assurances that there are no existing facilities in the community suitable for leasing as a multipurpose senior center.

§ 1328.35 Health and safety requirements.

(a) *General.* If its application contains provisions for any of the activities specified in § 1328.29, except staffing, the tribal organization must comply with all applicable local health, fire, safety, building, zoning and sanitation laws, ordinances or codes.

(b) *Life Safety.* If in the judgment of the tribal organization, existing fire and safety laws, ordinances or codes are inadequate to protect the health and safety of participants, the tribal organization may require a recipient of any multipurpose senior center award to—

(1) Comply with the provisions of the applicable building occupancy classification of the National Fire Protection Association "Life Safety Code."

(i) These regulations incorporate by reference the "Life Safety Code." (NFPA No. 101, 1976 edition). This incorporation by reference was approved by the Director of the Federal Register on July 19, 1980. This code is available from the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210 at a cost of $5.00 per copy.

(ii) A copy of the "Life Safety Code" is available for inspection at the Administration on Aging Public Inquiries, Room 4146, 330 Independence Avenue, SW., Washington, D.C. 20201, and at the Office of the Federal Register Library, Room 8401, 1100 L Street, NW., Washington, D.C. 20248.

(2) Install, in consultation with local fire authorities, an adequate number of smoke detectors in the senior center; and

(3) Have a plan for assuring the safety of older persons in a natural disaster or other safety threatening situations.

(c) *Architectural Barriers.* If a tribal organization uses any of the funds under this subpart for acquiring, altering, or renovating a multipurpose senior center facility, it must comply with regulations relating to minimum standards of construction, particularly with the requirements of Architectural Barriers Act of 1968 as set forth in 45 CFR 84.23.

(d) *Technical adequacy.* The tribal organization must assure the technical adequacy of any proposed alteration or renovation of a multipurpose senior center assisted under this part. The tribal organization assures technical adequacy by requiring that any alteration or renovation of a

multipurpose senior center that affects the load bearing members of the facility is structurally sound and complies with all applicable local ordinances, laws, or building codes. In absence of these codes, the tribal organization must assure compliance with Chapter 23 of the Uniform Building Code, or Chapter 12 of the Standard Building Code.

§ 1328.37 Surplus educational facilities from the Bureau of Indian Affairs.

If an eligible tribal organization applies for a grant under this part to renovate a surplus educational facility the Bureau of Indian Affairs (BIA) has made available for use as a center, the tribal organization—

(a) Must include in its application a letter from the Secretary of the Interior, identifying the specific facility and date the tribal organization assumes title;

(b) Must include in its application all documentation of the necessary renovations or alterations, and cost estimates that the Secretary of the Interior may provide;

(c) May renovate the center to become an extended care facility or a community center providing nutrition, social and child care services. If a center will be used for services other than services to older Indians, the tribal organization may use funds under this part only—

(1) To alter that portion of the center used by older Indians; or

(2) For a proportionate share of the alteration costs based on the extent of use of the facility by older Indians.

Application Requirements

§ 1328.39 Preapplication requirements.

(a) *General rule.* In order to establish its eligibility to receive a grant under this part, the tribal organization must submit a preapplication in accordance with the Commissioner's instructions for each project period for which it intends to submit an application.

(b) *Content of the preapplication.* The tribal organization must include in the preapplication information to demonstrate that it meets the eligibility requirements specified in § 1328.7. The preapplication must include—

(1) A description of the tribal organization, including—

(i) The name of the tribal organization;

(ii) The legal and organizational relationship of the tribal organization to the Indians in the area to be served;

(iii) If elected, a description of the election process, voting criteria, and extent of voter participation;

(iv) Whether the tribal organization is controlled, sanctioned or chartered by the governing body of Indians to be served, and, if so, evidence of such fact;

(v) Any limitations on authorities granted the tribal organization; and

(vi) The tribal resolution(s) authorizing it to apply for a grant under this part.

(2) Documentation of the number of older Indians that the tribal organization represents. To be eligible the tribal organization must represent 75 or more older Indians, as specified in § 1328.7(a)(1). Older Indians represented under this part may not receive services under 45 CFR Part 1321. Documentation must be certified by the BIA Agency Superintendent, unless the tribal organization uses statistics developed by the Bureau of Census;

(3) Documentation of its ability to deliver social and nutrition services to older Indians, as specified in § 1328.7(a)(2); and

(4) An assurance from the tribal organization that it has methods and procedures to ensure that older Indians represented under this part will not receive services under 45 CFR Part 1321 for the duration of the grant under this part.

§ 1328.41 Determination of eligibility.

(a) The Commissioner evaluates the information submitted in the preapplication and decides if the tribal organization meets the eligibility requirements specified in § 1328.7.

(b) If the Commissioner decides that the tribal organization is eligible, he or she notifies the tribal organization in writing that it is eligible to submit an application for a grant. At the same time, the Commissioner notifies the appropriate State Agency on aging and area agency on aging of the tribal organization's preapplication and determination of eligibility.

(c) If the Commissioner decides that the tribal organization is not eligible, he or she notifies that tribal organization in writing of the reasons why it is not eligible. If the reason for denial of eligibility is the tribal organization's failure to meet the requirements of § 1328.7(a)(3), the tribal organization may request technical assistance from the Commissioner. The Commissioner provides technical assistance, if practicable.

§ 1328.43 Application requirements.

(a) *General rule.* In order to receive a grant under this part, the eligible tribal organization must submit an application in accordance with the Commissioner's instructions for the project and budget periods specified by the Commissioner.

(b) *Information content of application.* The application must include—

(1) A description of the geographic boundaries of the service area proposed by the tribal organization;

(2) The total number of Indians to be served under the grant as provided in § 1328.39(b)(2);

(3) A copy of the needs assessment developed by the tribal organization under § 1328.9(e);

(4) A description of the program and program objectives. Each objective for the proposed program must be measurable and consistent with the purposes of the Act. The program description must specify—

(i) The services the tribal organization proposes to deliver;

(ii) The approximate number of people to be served in each service category;

(iii) Any obstacles to providing the services that have been identified; and

(iv) The plans to provide the services, including how each identified obstacle will be met;

(5) A staffing plan that demonstrates that the tribal organization will have adequate trained personnel to carry out the activities proposed in its application;

(6) A copy of any evaluation for the previous Federal fiscal year required under § 1328.9. This evaluation must demonstrate that the tribal organization satisfactorily performed under its previous grant(s) under this part;

(7) A copy of the tribal organization's proposed budget for the application period; and

(8) Any other information that the Commissioner requires.

(c) *Application assurances.* A tribal organization must provide satisfactory assurances in its application that—

(1) It has methods and procedures to ensure that the older Indians served under the grant do not receive services under Part 1321 for the period of the grant;

(2) It will cooperate fully in any site visits made by representatives of HHS;

(3) It will adopt fiscal control and fund accounting procedures necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part, including any funds paid by the tribal organization to the recipient of a subgrant or contract; and

(4) It will notify the area agency(ies) and the State Agency on Aging in the planning and service area(s) of its intent to apply and of its receipt of a grant under this part.

(d) *Application standards.* The application must demonstrate that—

(1) The tribal organization will meet satisfactorily the requirements for—

(i) Nutrition services, as specified in § 1328.21;

(ii) Legal services, as specified in § 1328.23;

(iii) Information and referral services; as specified in § 1328.25;

(iv) If applicable, a long-term care ombudsman program, as specified in § 1328.27;

(v) Multipurpose senior center activities as specified in §§ 1328.29 through 1328.37; and

(vi) General services requirements as specified in § 1328.19;

(2) The tribal organization will satisfactorily meet the requirements for—

(i) Tribal organization responsibilities, as specified in § 1328.9;

(ii) Advisory Council, as specified in § 1328.11;

(iii) Contributions, as specified in § 1328.13;

(iv) Prohibition against supplantation, as specified in § 1328.15.

(3) The program the tribal organization proposes is justified by the needs assessment contained in the application, and furthers the purposes of the Act and this part;

(4) The tribal organization has the capacity to carry out the services program it proposes within the budgeted amounts requested and approved.

(5) If the tribal organization decides to apply for any priority announced by the Commissioner, then the tribal organization satisfactorily meets additional requirements that the Commissioner sets for these awards.

(e) *Application signature.* The application must be signed by the principal official of the tribe or his or her designee.

§ 1328.45 Application approval.

(a) The Commissioner approves each application from an eligible tribal organization that meets all Federal requirements, including the requirements of this part. The Commissioner notifies the tribal organization in writing of the approval, and includes in the notice the amount, duration, and effective date of the grant award.

(b) Neither the approval of any application nor any grant award shall commit the Commissioner in any way to make additional, supplemental, continuation, or other awards with respect to any approved application or portion thereof.

(c) The Commissioner may impose additional conditions with respect to any grant award prior to or at the time of approval of the application when in his or her judgement such conditions are necessary.

§ 1328.47 Application disapproval.

(a) If the Commissioner disapproves an application from an eligible tribal organization, he or she notifies the eligible tribal organization of the disapproval in writing within 60 days of the disapproval. In each disapproval notice the Commissioner—

(1) Specifies each objection to the application; and

(2) Notifies the tribal organization of its rights to request a hearing on the disapproval, and of its right to request technical assistance to overcome each objection to approving the application.

(b) To the extent practicable, the Commissioner provides technical assistance to the tribal organization to assist it to overcome each objection to approving the application.

§ 1328.49 Hearing procedures.

(a) If the Commissioner disapproves an application from an eligible tribal organization, the tribal organization may file a written request for a hearing with the Commissioner. The request must be postmarked or delivered in person within 30 days of the date of the disapproval notice. If it requests a hearing, the tribal organization must submit to the Commissioner as part of the request, a copy of the notice of disapproval, a full written response to each objection specified in the notice of disapproval, including the pertinent facts and reasons in support of its response, and any and all documentation to support its position. Service of the request must also be made on the individual(s) designated by the Commissioner to represent him or her.

(b) The staff of the Administration on Aging will have the opportunity to respond within 30 days to the merits of the tribal organization's request.

(c) After the staff has responded, the Commissioner sets a date for the hearing. He or she notifies the tribal organization in writing of the date, time and place for the hearing.

(d) The hearing procedures include the right of the tribal organization to—

(1) A hearing before the Commissioner or an official designated by the Commissioner;

(2) Be heard in person or to be represented by counsel, at no expense to the Administration on Aging;

(3) Present written evidence prior to and at the hearing, and present oral evidence at the hearing if the Commissioner or designated official decides that oral evidence is necessary for the proper resolution of the issues involved, and

(4) Have the staff directly responsible for reviewing the application either present at the hearing, or have a deposition from the staff, whichever the Commissioner or designated official decides.

(e) The Commissioner or designated official conducts a fair and impartial hearing, takes all necessary action to avoid delay and maintains order, and has all powers necessary to these ends.

(f) Formal rules of evidence do not apply to the hearings.

(g) The official hearing transcript together with all papers, documents, exhibits, and requests filed in the proceedings, including rulings, constitutes the record for decision.

(h) After consideration of the record, the Commissioner or designated official issues a written decision, based on the record, which sets forth the reasons for the decision and the evidence on which it was based. The decision is issued within 60 days of the date of the hearing, constitutes the final administrative action on the matter and is promptly mailed to the tribal organization.

(i) Either the tribal organization or the staff of the Administration on Aging may request for good cause, an extension of any of the time limits specified in this section.

General Program Requirements

§ 1328.51 Prohibition on consideration of program benefits as personal income.

Benefits derived from this program cannot be considered as part of an older Indian's income in qualifying for other Federal programs.

[FR Doc. 80-21079 Filed 7-17-80; 8:45 am]
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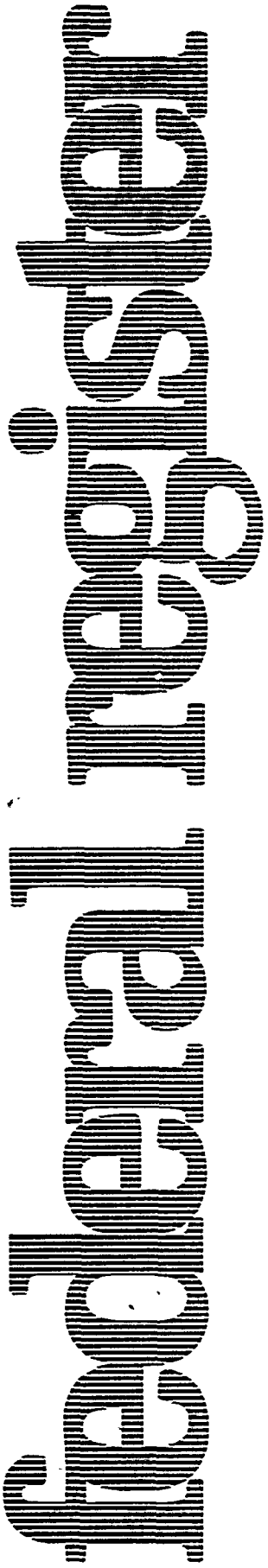

Friday
July 18, 1980

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction, General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determination, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

None.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the Federal Register are listed with each State.

Connecticut:	
CT79–2011	Apr. 6, 1979.
Delaware:	
DE78–3080	Nov. 3, 1978.
Florida:	
FL79–1109	July 20, 1979.
FL80–1075	June 20, 1980.
Michigan:	
MI79–2015	May 4, 1979.
Mississippi:	
MS80–1009	Jan. 4, 1980.
MS80–1079	June 27, 1980.
New Jersey:	
NJ79–3013	June 22, 1979.
Pennsylvania:	
PA79–3005	Mar. 16, 1979.
PA80–3027	Apr. 18, 1979.
PA80–3028	Apr. 11, 1980.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the Federal Register are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama:	
AL79–1142 (AL80–1074)	Nov. 23, 1979.
Kansas:	
KS80–4009 (KS80–4054)	Apr. 4, 1980.
KS80–4010 (KS80–4055)	Apr. 4, 1980.
KS80–4011 (KS80–4056)	Apr. 4, 1980.
Michigan:	
MI79–2020 (MI80–2042)	June 1, 1979.
Nebraska:	
NE77–4040 (NE80–4058)	Feb. 25, 1977.
NE77–4067 (NE80–4059)	Mar. 18, 1977.
New Mexico:	
NM79–4103 (NM80–4057)	Nov. 2, 1979.
Oklahoma:	
OK78–4062 (OK80–4060)	June 18, 1978.

OK79-4073 (OK80-4063)	Aug. 3, 1979.
OK79-4074 (OK80-4064)	Aug. 3, 1979.
OK79-4097 (OK80-4062)	Nov. 23, 1979.
OK79-4098 (OK80-4061)	Nov. 23, 1979.
Rhode Island:	
RI79-2065 (RI80-2054)	Aug. 17, 1979.
West Virginia:	
WV78-3018 (WV80-3018)	June 9, 1978.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. this 11th day of July 1980.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATION PAGE 1

DECISION NO. CT79-2011 - MOD. #16 (44 FR 20921 - April 6, 1979)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Hartford, Middlesex, New Haven, New London and Tolland Counties, Connecticut					
Change:					
Electricians:					
Hartford Co.: Hartland, New Haven Co.: Beacon Falls, Middlebury, Naugatuck, Oxford, Prospect, Seymour, Southbury, Waterbury, & Wolcott	$11.70	1.22	3%+.60	h	1/8%

MODIFICATION PAGE 2

DECISION NO. DE78-3080 - MOD. #9 (42 FR 51567 - November 3, 1978)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
State of Delaware					
Change:					
BOILERMAKERS:					
Kent and Sussex Counties	13.475	1.275	1.00		.04
BRICKLAYERS	11.40	.95	1.10		
CEMENT MASONS:					
Building Construction	10.55	1.28	.82		
Heavy and Highway Construction	10.25	1.28	.82		
IRONWORKERS:					
Structural, Ornamental, Reinforcing, Riggers, and Machinery Movers	12.95	1.34	1.36		.05
LABORERS-BUILDING CONSTRUCTION:					
Kent and Sussex Counties:					
Group 1	9.20	.90	.90		
Group 2	9.45	.90	.90		
Group 3	9.70	.90	.90		
Group 4	9.80	.90	.90		
Group 5	10.45	.90	.90		
New Castle County:					
Group 1	9.20	.90	.90		
Group 2	9.45	.90	.90		
Group 3	9.70	.90	.90		
Group 4	10.45	.90	.90		
Group 5	9.80	.90	.90		
LABORERS - HEAVY CONSTRUCTION:					
Kent and Sussex Counties:					
Common laborers, landscapers, planters, seeders, arborist, asphalt tampers, rakers, concrete pitman, puddlers, rubber magazine tenders, railroad trackmen, and signal men	5.95	.90	.90		

MODIFICATION PAGE 3

DECISION NO. DE78-3080 - (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
LABORERS - HEAVY CONSTRUCTION CONT'D:					
Pipelayers	6.10	.90	.90		
Wagon drill, diamond point drill, gunnite nozzlemen, form setters blasters, caissons and coffer dams (open air, below 8')	6.25	.90	.90		
LABORERS - HEAVY CONSTRUCTION:					
New Castle County:					
General laborers, asphalt tamper, asphalt raker, concrete pitman, landscaper, planter, puddler, railroad trackman, rubber magazine tender, seeder and arboriate, and signalman	6.95	.90	.90		
Pipelayers	7.10	.90	.90		
Blasters, caissons, and cofferdams (open air below 8 feet where excavations for circular caissons and cofferdams are 8 feet or more below level of natural grade adjacent to starting point), diamond point drills, form setters, gunite nozzle operators, and wagon drills	7.25	.90	.90		
LATHERS	11.15	1.25	.15		.01
MARBLE SETTERS	11.13	.95	1.10		
PAINTERS:					
Base Rate	10.77	1.00	.85		.01

MODIFICATION PAGE 4

DECISION NO. DE78-3080 - (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
PAINTERS CONT'D:					
Structural steel and suspended scaffolding (swing, chair, and window belts)	10.99	1.00	.85		.01
Machine Taping	11.27	1.00	.85		.01
Bridges (if surface to be painted is 50' or more above ground or water) and/or cabled scaffolding	13.25	1.00	.85		.01
Tank (if exposed to the weather and is used for storage or processing purposes with a capacity of 5,000 gallons or more using exterior dimensions and/or interior works on all tanks), sandblasting, and spray	11.32	1.00	.85		.01
Height pay - work 75' or more from surface an additional 55¢ shall be paid above the applicable rate					
PLASTERERS	11.62	.90			.01
PLUMBERS AND STEAMFITTERS:					
New Castle and Kent (north of the southern boundary of Dover City) Counties:					
Steamfitters	15.30	1.03	1.07	e	.05

MODIFICATION PAGE 5

DECISION NO. DE78-3080 - (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
POWER EQUIPMENT OPERATORS- Building and Heavy Construction:					
Group 1	13.19	7.9%	10.3%	g	1.8%
Group 2	12.90	7.9%	10.3%	g	1.8%
Group 3	12.03	7.9%	10.3%	g	1.8%
Group 4	11.26	7.9%	10.3%	g	1.8%
Group 5	10.79	7.9%	10.3%	g	1.8%
Group 6	9.88	7.9%	10.3%	g	1.8%
Group 7					
100' and over	13.44	7.9%	10.3%	g	1.8%
150' and over	13.69	7.9%	10.3%	g	1.8%
200' and over	13.93	7.9%	10.3%	g	1.8%
POWER EQUIPMENT OPERATOR- Highway Construction:					
Group 1	12.90	7.9%	10.3%	g	1.8%
Group 2	12.03	7.9%	10.3%	g	1.8%
Group 3	11.26	7.9%	10.3%	g	1.8%
Group 4	9.88	7.9%	10.3%	g	1.8%
SPRINKLER FITTERS	14.53	.85	1.20		.08
TERRAZZO WORKERS AND TILE SETTERS	11.13	.95	1.10		
TRUCK DRIVERS - BUILDING CONSTRUCTION:					
Group 1	9.035	.9675	1.125	f	
Group 2	8.935	.9675	1.125	f	
Group 3	8.785	.9675	1.125	f	
TRUCK DRIVERS - HEAVY AND HIGHWAY CONSTRUCTION:					
Group 1	8.185	.9675	1.125	f	
Group 2	8.085	.9675	1.125	f	
Group 3	7.935	.9675	1.125	f	

MODIFICATION PAGE 6

DECISION NO. FL79-1109 - Mod. #3 (44 FR 42856 - July 20, 1979) Martin and Palm Beach Counties, Florida	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers	13.09	.65	.65		.06
Carpenters; Soft floor Layers (All of Martin County and that portion of Palm Beach County north of a line from the Atlantic Ocean along Appleby Street in Boca Raton, west to US #1 to Canal C-15, then west to Palm Beach County line)	10.60	.55	.90		.06
Remainder of Palm Beach County	10.60	.90	.55		.06
Electricians					
Wiremen	12.07	4.5%	3%+6%	6%	1.5%
Cable Splicers	13.28	4.5%	3%+6%	6%	1.5%
Ironworkers	11.30	.70	.93		.10
Laborers: (Permit Value $500,000 and over):					
Air tool operators; Mason Tenders; Mortar Mixers; and Pipelayers	7.85	1.07	.50		.01
Plasterers' tenders	8.03	1.07	.50		.01
Unskilled Laborers	7.75	1.07	.50		.01
Laborers: (Permit Value up to $500,000):					
Air tool operators; Mason Tenders; Mortar Mixers; and Pipelayers	6.15	1.07	.50		.01
Plasterers' tenders	6.33	1.07	.50		.01
Unskilled Laborers	6.05	1.07	.50		.01
Linemen:					
Linemen	13.20	.45	3%+6%		0.75%
Heavy Equipment Operators	13.20	.45	3%+6%		0.75%
Winch Truck Operators	10.50	.45	3%+6%		0.75%
Cable Splicers	13.50	.45	3%+6%		0.75%
Truck Drivers	8.48	.45	3%+6%		0.75%
Groundmen	7.00	.45	3%+6%		0.75%
Millwrights	11.72	.65	.70		.10
Painters:					
Brush	8.83	.55	.30		.05
Paperhanger; Roller Spray; Taper	9.08	.55	.30		.05
	9.33	.55	.30		.05

FL79-1109 (Cont'd): Change (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers: Pipefitters; Steamfitters					
Commercial: (51 or more plbg. fixtures, with 41 or more tons A/C)	12.01	.57	1.05		.16
Commercial: (50 or less plbg. fixtures with 40 or less tons A/C)	11.00	.57	1.05		.16
Industrial: (all manufacturing plants and processing plants)	14.94	.57	1.05		.16
Sheet Metal Workers	11.50	.70	.48		.04
DECISION NO. FL80-1075 - Mod. #1 (45FR 41831 - June 20, 1980) Duval County, Florida					
Change:					
Carpenters	9.75	.72	.70	.45	.06
Piledrivermen	9.75	.72	.70	.45	.06
Bricklayers & Stonemasons	10.32	.45	.50		6%
Laborers:					
Gunnite Workers, Mechanical Tool Operators Power Buggy Operators & Pipelayers	6.62	.30	.20		
Unskilled	6.52	.30	.20		
Millwrights	10.64	.72	.70		.05

DECISION No. MI79-2015 - MOD #4 (44FR26443 May 4, 1979) Allegan, Berrien, Calhoun, Clinton, Eaton, Ingham, Jackson & Kalamazoo Counties, Michigan	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ELECTRICIANS:					
Allegan County (Laketon, Fillmore, Leighton Twps.	$12.85	.75	3%+.35		.01
Remainder of Allegan County & Kalamazoo County	13.58	.75	9½%		.01
Berrien County	13.79	4.8%	7%		½%
Calhoun County & (Sunfield, Vermontville, Kalamo, Bellevue, Eaton & Brookfield Townships) in Eaton County	13.70	.75	9%		.01
Clinton & Ingham (Except Onondaga, Leslie, Stockbridge & Bunker Hill Townships) Counties & The Remainder of Eaton County	13.87	.75	3%+1.50		.5%
Jackson County & The Remainder of Ingham County	13.07	4%+1.00	3%+.70	10%	.26

MODIFICATION PAGE 9

DECISION #MS80-1009-Mod.#1 (45 FR 1348-January 4, 1980)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Area IV Counties: Attala, Clarke, Jasper, Kemper, Lauderdale, Leake, Neshoba, Newton, Noxubee, Scott, Smith, and Winston, Mississippi					
CHANGE:					
Power Equipment Operators:					
Curing Machine Operator	3.10				
DECISION #MS80-1079-Mod.#1 (45 FR 43594-June 27, 1980)					
Bolivar, Forrest, Jones, Hancock, Harrison, Jackson, Pearl River, Issaquena, Sharkey, Sunflower, Washinton, LeFlore, Lowndes, Yalobusha, and Warren Counties, Mississippi.					
CHANGE:					
Hancock, Harrisdn, Jackson, Pearl River, and Warren Counties.					
Elevator Constructors:					
Elevator Constuctors	10.26	1.045	.82	a+b	.035
Helper	7.18	1.045	.82	a+b	.035

ADD:
PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving.

FOOTNOTES:
a. 7 paid holidays: A through G
b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
c. 2 paid holidays: D & F provided employee has been employed for fifteen (15) working days prior to the holiday.

MODIFICATION PAGE 10

MS80-1079 (Cont'd)

ADD: (continued)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	7.25	.40	.50		
GROUP II	7.84	.40	.50		
GROUP III	9.15	.40	.50		

GROUP I: Truck drivers on equipment up to but not including 1½ tons, station wagons, jeeps and automobiles, truck spotters

GROUP II: Truck drivers on equipment 1½ tons and up to but not including 5 tons

GROUP III: Truck drivers on equipment rated 5 tons or 6 yards and over, including heavy equipment such as pole trucks, miss or corning wagons, dumpsters, semi-drivers, agitator, ross carriers, dempsey dumps, euclid trucks, fork-lift truck in warehouse and similar equipment, such as tractors, 10 wheelers, jeeps or dump trucks or pickup trucks pulling two or four wheel trailers hauling equipment.

MS80-1079 (Cont'd)

ADD: (continued)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W.	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	10.23	.50	.30		.05
GROUP 2	9.28	.50	.30		.05
GROUP 3	9.08	.50	.30		.05
GROUP 4	8.18	.50	.30		.05
GROUP 5	6.93	.50	.30		.05
GROUP 6	6.93	.50	.30		.05

GROUP 1:
Engineer - operating under air pressure
GROUP 2:
Mechanic
GROUP 3:
Air tugger (2 drum), asphalt plant, backhoe, blacksmith, boom tractor, bulldozer, central mixing plant, cherry picker, clamshell, crane derrick, derrick boat, derrick car, dragline, dredge, elevating grader, excavator (power belt), forklift, hoist (2 drum) locomotive engineer, marine engineer (chief) master pilot, mixermobile, motor patrol & similar type equipment, paver (21 C.F. or larger, piledriver, recharger, roaming greaser (1st), scoop (skimmer), scraper, shovel, trenching machine (over 18" bucket line width), tournapull, DW-10 & similar pulltype scrapers, traxavator and similar endloaders, welder, welding machines or S/W pumps (2 to 6), well driller, well point pumps
GROUP 4:
Air tugger, asphalt spreader (bituminous distributor), asphalt spreader (bituminous mixer), backfilling machine, conveyor, drill (earth), finishing machine, fireman, heating plant, hoist, marine engineer (assistant), mixer, payloader, and similar endloaders, pilot, power generating plant, pump (concrete), roller, scoopmobile, tractor (with power take-off), trenching machine (18"-or smaller bucket line width), tugboat, winch truck
GROUP 5:
Air compressor, form grader, locomotive hostler, oiler (truck crane), pump, roughneck, tractor (without attachments), welding machine
GROUP 6:
Batch scale, deckhand, motorboat (in or outboard), oiler scowman

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR,5.5(a)(1)(ii)).

DECISION NO. NJ79-3013 - Mod. #4
(44 FR 36661 - June 22, 1979)
Atlantic County, New Jersey

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers	12.20	.75	1.00		.04
Carpenters and Soft Floor Layers	12.57	8%	7%		.5%
Cement Masons	12.20	.75	1.00		.04
Electricians:					
Units built primarily for residence not to exceed 4 unit apartments (Note: Firewalls alone are not a determinative criteria.):					
That portion south and west of a line following the White Horse Pile (US Hwy. 30) in a southeasterly direction from Camden County to the Hays Landing-DaCosta Road, continuing south along that road to the Great Egg Harbor River near Weymouth, along that river to the Harding Highway to the Hays Landing-Tuckahoe Road, and south on that road to the north limits of the county	7.42	7%	3% + .30		.05
Remainder of County	7.15	7%	3% + .60		.05
Ironworkers	11.93	1.34	2.86		
Laborers:					
Common Laborers, Mason Tenders, Plasterers Laborers, and Concrete Workers	8.65	.65	.95		.10
Tool Operators (except small hand tools) including operation of motorized buggies	8.90	.65	.95		.10
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	9.05	.65	.95		.10
Painters:					
New Construction:					
Brush and Roller, Paper Hanging and Wall Covering	13.20	1.05	.95		.10

MODIFICATION PAGE 13

DECISION NO. NJ79-3013 - Mod. #4 (Continued)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
New Construction: (Cont'd)					
Spray	14.20	1.05	.95		.10
Repaint Work:					
Brush and Roller, Paper Hanging and Wall Covering	10.56	1.05	.95		.10
Spray	11.36	1.05	.95		.10
Plasterers	12.20	.75	1.00		.04
Plumbers and Pipefitters	12.35	.52	1.00	1.00	.10
Roofers:					
Composition, Damproofing, and Waterproofing	14.17	1.40	.95		
Sheet Metal Workers	13.84	1.37	1.26		.04
Add:					
Sprinkler Fitters	15.16	.85	1.20		.08

MODIFICATION PAGE 14

DECISION NO. PA79-3005 MOD. NO 6 (44 FR 16320 - March 16, 1979) Lycoming County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H'& W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Bricklayers & Stonemasons	$10.80	1.05	.75		.015
Electricians	10.58	.65	3%+.95	.75	.02
Ironworkers	12.905	1.34	1.36		.03
Sprinkler Fitters	14.53	.85	1.20		.08
Soft Floor Layers	10.35	.60	.70		.05
Steamfitters	12.01	.84	.80	1.00	.05
Plasterers	10.69				
Piledrivermen	11.97	2.63	1.40	d	.13
Plumbers	12.01	.84	.80	1.00	.05

DECISION NO. PA80-3027 MOD. NO. 2 (45 FR 26654 - April 18, 1980) Schuylkill County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H'& W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians:					
Tremont and Pinegrove Townships	$10.84	.65	3%+.67		1/4%
Remainder of County	12.80	.55	3%+.30		.05
Ironworkers	12.80	1.34	1.36		.02
Painters:					
Remainder of County					
Brush	10.25	.80	.90		
Steel	11.30	.80	.90		
Spray	11.30	.80	.90		
Piledrivermen	11.97	2.63	1.40	d	.13
Plumbers	12.54	.80	1.25		.05
Steamfitters	12.99	.65	.95		.05
Sprinkler Fitters	14.53	.85	1.20		.08
Soft floor layers	10.35	.60	.70		.05

MODIFICATION PAGE 15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. PA80-3028					
MOD. NO. 2					
(45 FR 25019 - April 11, 1980)					
Berks County, Pennsylvania					
CHANGE:					
Electricians:					
Marion, Tulpehocken and Bethel Townships	$10.84	.65	3%+.67		1/4%
Ironworkers, Structural, Ornamental, Bridge and Reinforcing	12.80	1.34	1.36		.02
Painters:					
Brush	10.25	.80	.95		
Bridge, tower, stacks and tanks	11.70	.80	.95		
Spray & steel	11.30	.80	.95		
Piledrivermen	11.97	2.63	1.40	e	.13
Roofers:					
Albany, Maxstany and Windsor Townships					
Composition and Slate	12.28		1.55		
Sprinkler Fitters	14.53	.85	1.20		.08
Sheet metal workers	11.66	1.44	1.18		.14
DECISION NO. PA80-3030					
MOD. NO. 2					
(45 FR 36764 - May 30, 1980)					
Luzerne County, Pennsylvania					
CHANGE:					
Ironworkers:					
Structural & Ornamental	13.35	e			.10
Reinforcing	13.25	e			.10
Lathers:					
Pittston, Avoca, Dupont & Duryea	12.04		.10		.01
Piledrivermen	11.97	2.63	1.40	g	.13
Plumbers	12.54	.80	1.25		.05
Steamfitters	12.99	.65	.95		.05

FOOTNOTE:
e. Employer contributes $2.70 per hour to a combined Health & Welfare and Pension Fund.

SUPERSEDEAS DECISION

STATE: Alabama
COUNTIES: *See Below
DECISION No. AL80-1074
Date: Date of Publication
Supersedes Decision NO.: AL79-1142 dated November 23, 1979 in 44 FR-67305
DESCRIPTION OF WORK: Building construction projects (does not include single family homes and apartments up to and including 4 stories)

*Counties: Lawrence, Limestone and Morgan

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$12.46	.55	.80		.05
Bricklayers:					
Bricklayers, Marble Masons Stonemasons, Pointers, Cleaners, Caulkers	11.50				
Carpenters:					
Carpenters, & Soft Floor layers	9.20	.55	.45		.05
Millwrights	9.85	.55	.45		.05
Piledrivermen	9.60	.55	.45		.05
Cement Masons	10.75				
Electricians:					
Electricians, Linemen	12.15	.55	3%+.65		
Cable splicers	12.40	.55	3%+.65		
Groundmen	11.15	.55	3%+.65		
ELEVATOR Constructors	10.56	.895	.69	a+b	.03
Ironworkers	10.60	.75	.75		.08
Laborers (Lawrence County)					
Laborers, Mason Tenders, Plasterers' Tenders	6.82	.40	.50		
Air Tool Operators, Mortar Mixers, and Pipelayers	7.02	.40	.50		
Laborers (Limestone & Morgan Counties):					
Laborers, Mason Tenders	6.01	.40	.50		
Air Tool Operators (jackhammer, vibrator), Mortar Mixer	6.26	.40	.50		
Plasterers	11.00				
Plumbers, Pipefitters, Steamfitters:					
Lawrence Co. (Eastern portion of Co., north from intersection of State Rt. 33 Rt. 20 to Wheeler Lake including Moulton & Wren excluding Bankhead National Park), Limestone Co. & Morgan Co.	11.85	.60	.65		.15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers, Steamfitters: Lawrence Co., (Remaining portion)	$12.76	.75	.85		.13
Roofers	9.95		.30		.10
Sheet metal Workers	11.88	.79	1.07		.09
Terrazo Workers & Tile Setters	11.25				

PAID HOLIDAYS:

A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day

FOOTNOTES:

a. 6 paid holidays: A through F.

b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in the business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in the business less than 5 years.

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	11.33	.50	.55		.05
GROUP B	9.89	.50	.55		.05
GROUP C	9.07	.50	.55		.05

Group A - Backhoe, bulldozers, crane, crane car, central mixing plant, concrete pump, derrick, dragline, dredge, drill, elevating grader, finishing machine (concrete), forklift, front end loader, grade all, grout pump, helicopter pilot, hoist, locomotive engineer, mechanic, motor patrol, mucking mechanic, master pilot, pile driver, post hole digger, scraper (pull type & self prop.), shovel, sweeper, tractor (spec. equip.,) trenching machine, well point & winch truck operators

Group B - Bituminous dist., central air comp., concrete mixer (port.) fireman floating equip., front end loader, rubber tire, ¾ cu. yd. & under, locomotive brakeman, locamotive flagman, locomotive switchman, oiler-driver (35 tons crane & over) outboard motor boat (when used for towing), paving machine, post hole digger mounted on farm type tractor & walk behind type trenching machine operators

Group C - Air compressor (port.), conveyor, fireman stationary equip., oiler, outboard motor boat & pump operators

Oiler driver - additional $.10 per hour

All crane, derricks and gantry tower crane operators operating such equipment with an overall height of 150 ft. including jobs - additional $.50 per hour

All scraper operators operating Tanden scrapers receive $.25 per hour additional for each additional scraper (bowl).

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Kansas COUNTY: Shawnee
DECISION NO.: KS80-4054 DATE: Date of Publication
Supersedes Decision No. KS80-4009 dated April 4, 1980 in 45 FR 23252
DESCRIPTION OF WORK: Building Construction Projects (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	13.17	.80	1.55		.05
BOILERMAKERS	12.87	1.275	1.00		.05
BRICKLAYERS: Stonemasons	12.19	.40	.25		
CARPENTERS:					
Carpenters	10.60	.40	.75		.05
Millwrights	11.10	.40	.75		.05
Piledrivermen	10.975	.40	.75		.05
CEMENT MASONS:					
Cement masons	10.20	.55	.35		
Machine operators	10.325	.55	.35		
Composition color or chloride additives	10.40	.55	.35		
ELECTRICIANS:					
Electricians	13.50	.75	3%+.65		.10
Cable splicers	14.85	.75	3%+.65		.10
ELEVATOR CONSTUCTORS	11.37	1.195	.82	a	.035
GLAZIERS	9.95	.75	.81		.03
IRONWORKERS	12.35	.80	1.50		.05
LABORERS (Building Construction):					
General laborers	8.10	.55	.50	.50	.05
Power tool operators, compactors concrete breakers, chipping tools, drilling tools, concrete saws, mechanically operated georgia buggy	8.30	.55	.50	.50	.05
Mason tenders, plaster tenders, mortar mixers for masons and cement finishers, all stocking scaffold, clean up for masons (building and wrecking)	8.40	.55	.50	.50	.05
Sand and concrete gun nozzleman and powderman	8.50	.55	.50	.50	.05
Laborers (Site Preparation and Grading);					
Group 1	7.40	.50	.50	.50	.05
Group 2	7.55	.50	.50	.50	.05
Group 3	7.65	.50	.50	.50	.05
Group 4	7.80	.50	.50	.50	.05
Group 5	7.90	.50	.50	.50	.05

CLASSIFICATION DEFINITIONS

LABORERS (Site Preparation and Grading):

Group 1 - Board mat weavers and cable tiers; Georgia buggy (manually operated); mixerman - no skip; lift; nailers, salamander tenders; track men; tractor swamper; truck dumper, wire mesh setter, water pump up to 4 inches; and all other general laborer including flagman

Group 2 - Air tool operators, cement handlers (bulk), chain saw, georgia buggy (machanically, operated);grade man, hot mastic kettlemen, crusher feeder, joint man, jute man; mason tender; material batch hooper and scall man, mixer man; pier hole man working 10 ft. deep; pipelayer-drainage (concrete and/or corrugated metal); signal man (crane), truck dumper-dry batch; vibrator operator; wagon and churn drill operator

Group 3 - Asphalt raker, barco tamper; concrete saw; creosote material-handling and applying; nozzle burner (cutting torch and burning bar)

Group 4 - Conduit pipe; tile and duck line setter; form setter and liner on concrete paving; powderman; sandblasting and gunite nozzleman; sanitary sewer pipe layer; steel plate structure erectors; water and gas distrubution

Group 5 - Leadman or pusher

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	11.80		.20		
LINE CONSTUCTION:					
Lineman	13.07	.45	3%		1/2%
Cable splicers	13.72	.45	3%		1/2%
Groundman,	8.13	.45	3%		1/2%
Powderman	10.83	.45	3%		1/2%
Line Truck and Equipment Operators	10.83	.45	3%		1/2%
PAINTERS:					
Brush, drywall, sandling and taping	11.89	.60			.03
Painting of structures over 50' (all types); spray	12.64	.60			.03
PLASTERERS	8.30				.01
PIPEFITTERS; Plumbers	12.63	.80	1.00		.04
ROOFERS:					
Roofers, Flate Slate & Tile damproofers and Water-proofers	12.16		.60	b	
Roofers working in pitch, tar or Creosote, Coal	13.01		.60	b	
SHEET METAL WORKERS	11.99	3%+.50	1.29		.04
SOFT FLOOR LAYERS	10.70	.50	.55		.06
SPRINKLER FITTERS	14.10	.85	1.20		.08
TILE SETTERS	12.00				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS BUILDING CONSTUCTION					
Master Mechanic	13.50	.75	1.00		.10
Cranes with lifting ring	12.50	.75	1.00		.10
Cranes and shovels-100 ft. of boom or over including jib or 30 tons or over or 2 yard capacity, three (3) drum hoist	11.75	.75	1.00		.10
Cranes and shovels-booms 200 ft. and over four (4) drum hoist, Frankie - type pile driving machines, and tower cranes and derricks	12.00	.75	1.00		.10
GROUP I	11.50	.75	1.00		.10
GROUP II	11.10	.75	1.00		.10
GROUP III					
CLASS A	9.30	.75	1.00		.10
CLASS B	9.55	.75	1.00		.10
GROUP IV					
CLASS A	8.75	.75	1.00		.10
CLASS B	9.00	.75	1.00		.10

GROUP I
Boiler (2), boom cat, boring machine, ditching machine, concrete ready-mix plant, crane, truck crane, clamshell dragline, dozer, scrapper, all types, patrol, firemen (when operating steam or air valve), gradall, hi-loaders (over one yard), hoist, two drum, mechanic or welder, mix-ermobile, paver, or any other machine with power swing, piledriver operator, power shovel, pump, concrete or other material, locomotive

GROUP II
A-frame truck, bob cat/hi-loaders (1 yard or under), barber-greene loader or similar type, boiler (1), ditching machine - small, elevator operator, fireman, forklift, hoist, or active drum, hydra hammer jeep ditcher, mixer, other than paver, power broom, pump 4" or larger, small machine engineer, welding machine (1), greaser equipment

GROUP III
CLASS A - Farm tractor (without attachments)
CLASS B - Farm tractor (with attachments)

GROUP IV
CLASS A - Oiler
CLASS B - Motor crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS Site Preparation and Grading					
Group 1	9.75	.75	1.00		.10
Group 2	9.50	.75	1.00		.10
Group 3	9.25	.75	1.00		.10
Group 4	8.90	.75	1.00		.10
Group 5	9.00	.75	1.00		.10
Group 6	10.00	.75	1.00		.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS (Site Preparation and Grading):
Group 1 - Asphalt paver and spreader, backhoe; boring machine, blades, all types; clamshell; concrete mixer paver operator; concrete central plant operator (automatic); crane, truck crane, pitman crane, hydro crane, or any machine with power swing; derrick or derrick trucks; dragline operator; dredge operator; dozer; ditching machine; euclid loader; hoist -2 active drums; loader, all types, mechanic or welder; mixer-moble; track; scoop operator, all types; side boom cat-cherry picker; skimmer scoop operator; pushcat operator
Group 2 - Asphalt plant operator; elevating grader operator
Group 3 - A-frame truck; asphalt roller operator; asphalt plant boiler fireman; backfiller operator; barber greene loader; boiler other than asphalt; bull float operator; churn drill operator; compressor operator (1); concrete central plant operator; concrete mixer operator skip; concrete pump operator; crusher operator, distributor operator; finish machine operator - concrete; fireman other than asphalt; flex plane operator, fork lift; form grader operator; greaser; hoist 1 drum; jeep ditching machine; pavement breakers, self-propelled (of the hydra hammer or similar type); pump operator, 4" or over, two; pump operator, other than dredge; screening and wash plant operator; small machine operator; spreader box operator, self-propelled; tractor operator over 50 h.p.; self-propelled roller operator, other than asphalt; siphon and jets; subgrading machine operator; tank car heater operator, combination booster and boiler; towboat operators; vibrating machine operator, not hand
Group 4 - Concrete gang saw, self-propelled (con-cut); conveyor operator; Harrow, disc seeder; oiler; tractor operator, 50 h.p. or less without attachments
Group 5 - Oiler, motor crane
Group 6 - Master mechanic

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DIVERS - Light Station Wagons, Pickups	9.225	.40	.35		
TRUCK DRIVERS - Medium Flatbeds and dump five ton or less, Warehousemen & Partsmen	9.325	.40	.35		
TRUCK DRIVERS - Heavy - Over 5 ton, Semi-Trailers, Fork Lifts, Industrial Tractors as used in Teamsters jurisdiction, Staddle Trucks, A frame & Winch Trucks when used as such	9.575	.40	.35		
Mechanics and Dispatchers	9.725	.40	.35		
TRUCK DRIVERS (Site Preparation and Grading)					
Group 1	8.25	.40	.50		
Group 2	8.35	.40	.50		
Group 3	8.50	.40	.50		

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS:
Group 1 - pickups; panel trucks; station wagons; flat beds; dump and batch trucks (single axle)
Group 2 - Tandem trucks, warehousemen or partsmen; mechanic helpers and servicemen
Group 3 - Lowboys; semi-trailers, all transit mixer trucks (single or tandem axle); A-frame and winch trucks when used as such; euclid, end and bottom dump; tournarockers; atheys; dumptors and similar off-road equipment and mechanics on such equipment

FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for over 5 years of service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Also 7 paid Holidays.

b. After 6 months of employment $.26; after 5 years $.52

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Kansas COUNTY: Shawnee
DECISION NO. KS80-4055 DATE: Date of Publication
Supersedes Decision No. KS80-4010 dated April 4, 1980 in 45 FR 23255
DESCRIPTION OF WORK: Residential construction consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$13.17	.80	1.55		.05
Boilermakers	12.87	1.275	1.00		.05
Bricklayers, Stonemasons	12.19	.40	.25		
Carpenters:					
Carpenters	10.60	.40	.75		.05
Millwrights	11.10	.40	.75		.05
Piledrivermen	10.975	.40	.75		.05
Cement Masons:					
Cement Masons	10.20	.55	.35		
Machine operators	10.325	.55	.35		
Composition color or chloride addition	10.40	.55	.35		
Electricians	9.45	.75	3%+.50		.10
Ironworkers	12.35	.80	1.50		.05
Laborers:					
General laborers	8.10	.55	.50		.05
Power tool oprs., compactors concrete breakers, chipping tools, drilling tools, concrete saws, mechanically operated georgia buggy	8.30	.55	.50		.05
Mason tenders, plaster tenders, mortar mixers for plasterers, masons and cement finishers, all stocking scaffold, clean up for masons (building & wrecking)	8.40	.55	.50		.05
Sand and concrete gun nozzleman powderman	8.50	.55	.50		.05
Laborers (Site Preparation and Grading):					
Group 1	7.40	.50	.50	.50	.05
Group 2	7.55	.50	.50	.50	.05
Group 3	7.65	.50	.50	.50	.05
Group 4	7.80	.50	.50	.50	.05
Group 5	7.90	.50	.50	.50	.05

CLASSIFICATION DEFINITIONS

LABORERS (Site Preparation and Grading):

Group 1 - Board mat weavers and cable tiers; Georgia buggy (manually operated); mixerman - no skip; lift; nailers, salamander tenders; track men; tractor swamper; truck dumper, wire mesh setter, water pump up to 4 inches; and all other general laborer including flagman

Group 2 - Air tool operators, cement handlers (bulk), chain saw, georgia buggy (mechanically operated); grade man, hot mastic kettlemen, crusher feeder, joint man, jute man; mason tender; material batch hooper and scale man, mixer man; pier hole man working 10 ft. deep; pipelayer-drainage (concrete and/or corrugated metal); signal man (crane), truck dumper-dry batch; vibrator operator; wagon and churn drill operator

Group 3 - Asphalt raker, barco tamper; concrete saw; creosote material-handling and applying; nozzle burner (cutting torch and burning bar)

Group 4 - Conduit pipe; tile and duck line setter; form setter and liner on concrete paving; powderman; sandblasting and gunite nozzleman; sanitary sewer pipe layer; steel plate structure erectors; water and gas distrubution

Group 5 - Leadman or pusher

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lathers	11.80		.20		
Line Construction					
Lineman	13.07	.45	3%		1/2%
Cable Splicer	13.72	.45	3%		1/2%
Groundman,	8.13	.45	3%		1/2%
Powderman	10.83	.45	3%		1/2%
Line truck and equipment operator	10.83	.45	3%		1/2%
Painters:					
Brush, drywall, sanding and taping, roller	11.89	.60			.03
Painting of structures over 50' (all types); spray	12.64	.60			.03
	8.30				.01
Plasterers	12.63	.80	1.00		.04
Plumbers: Pipefitters					
Roofers:					
Roofers flat slate and tile, dampproofers	12.16		.60	a	
Roofers working in pitch, tar or creosote, coal	13.01		.60	a	
FOOTNOTE: a. After 6 mos. of employment .26¢; after 5 yrs. .52¢.					
Sheet Metal Workers	11.99	3%+.50	1.29		.04
Soft Floor Layers	10.70	.50	.55		.06
Sprinkler Fitters	14.10	.85	1.20		.08
Tile Setters	12.00				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS BUILDING CONSTUCTION					
Master Mechanic	13.50	.75	1.00		.10
Cranes with lifting ring	12.50	.75	1.00		.10
Cranes and shovels-100 ft. of boom or over including jib or 30 tons or over or 2 yard capacity, three (3) drum hoist	11.75	.75	1.00		.10
Cranes and shovels-booms 200 ft. and over four (4) drum hoist, Frankie - type pile driving machines, and tower cranes and derricks	12.00	.75	1.00		.10
GROUP I	11.50	.75	1.00		.10
GROUP II	11.10	.75	1.00		.10
GROUP III					
CLASS A	9.30	.75	1.00		.10
CLASS B	9.55	.75	1.00		.10
GROUP IV					
CLASS A	8.75	.75	1.00		.10
CLASS B	9.00	.75	1.00		.10

WAGE CLASSIFICATIONS

GROUP I
Boiler (2), boom cat, boring machine, ditching machine, concrete ready-mix plant, crane, truck crane, clamshell dragline, dozer, scrapper, all types, patrol, firemen (when operating steam or air valve), gradall, hi-loaders (over one yard), hoist, two drum, mechanic or welder, mix-ermobile, paver, or any other machine with power swing, piledriver operator, power shovel, pump, concrete or other material, locomotive

GROUP II
A-frame truck, bob cat/hi-loaders (1 yard or under), barber-greene loader or similar type, boiler (1), ditching machine - small, elevator operator, fireman, forklift, hoist, or active drum, hydra hammer jeep ditcher, mixer, other than paver, power broom, pump 4" or larger, small machine engineer, welding machine (1), greaser equipment

GROUP III
CLASS A - Farm tractor (without attachments)
CLASS B - Farm tractor (with attachments)

GROUP IV
CLASS A - Oiler
CLASS B - Motor crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
Site Preparation and Grading					
Group 1	9.75	.75	1.00		.10
Group 2	9.50	.75	1.00		.10
Group 3	9.25	.75	1.00		.10
Group 4	8.90	.75	1.00		.10
Group 5	9.00	.75	1.00		.10
Group 6	10.00	.75	1.00		.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS (Site Preparation and Grading):
Group 1 - Asphalt paver and spreader, backhoe; boring machine, blades, all types; clamshell; concrete mixer paver operator; concrete central plant operator (automatic); crane, truck crane, pitman crane, hydro crane, or any machine with power swing; derrick or derrick trucks; draqline operator; dredge operator; dozer; ditching machine; euclid loader; hoist -2 active drums; loader, all types, mechanic or welder; mixer-moble; track; scoop operator, all types; side boom cat-cherry picker; skimmer scoop operator; pushcat operator
Group 2 - Asphalt plant operator; elevating grader operator
Group 3 - A-frame truck; asphalt roller operator; asphalt plant boiler fireman; backfiller operator; barber greene loader; boiler other than asphalt; bull float operator; churn drill operator; compressor operator (1); concrete central plant operator; concrete mixer operator skip; concret pump operator; crusher operator, distributor operator; finish machine operator - concrete; fireman other than asphalt; flex plane operator, fork lift; form grader operator; greaser; hoist 1 drum; jeep ditching machine; pavement breakers, self-propelled (of the hydra hammer or similar type); pump operator, 4" or over, two; pump operator, other than dredge; screening and wash plant operator; small machine operator; spreader box operator, self-propelled; tractor operator over 50 h.p.; self-propelled roller operator, other than asphalt; siphon and jets; subgrading machine operator; tank car heater operator, combination booster and boiler; towboat operators; vibrating machine operator, not hand
Group 4 - Concrete gang saw, self-propelled (con-cut); conveyor operator; Harrow. disc seeder; oiler; tractor operator, 50 h.p. or less without attachments
Group 5 - Oiler, motor crane
Group 6 - Master mechanic

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DIVERS - Light Station Wagons, Pickups	9.225	.40	.35		
TRUCK DRIVERS - Medium Flatbeds and dump five ton or less, Warehosemen & Partsmen	9.325	.40	.35		
TRUCK DRIVERS - Heavy - Over 5 ton, Semi-Trailers, Fork Lifts, Industrial Tractors as used in Teamsters jurisdiction, Staddle Trucks, A frame & Winch Trucks when used as such	9.575	.40	.35		
Mechanics and Dispatchers	9.725	.40	.35		
TRUCK DRIVERS (Site Preparation and Grading)					
Group 1	8.25	.40	.50		
Group 2	8.35	.40	.50		
Group 3	8.50	.40	.50		

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS:
Group 1 - pickups; panel trucks; station wagons; flat beds; dump and batch trucks (single axle)
Group 2 - Tandem trucks, warehousemen or partsmen; mechanic helpers and servicemen
Group 3 - Lowboys; semi-trailers, all transit mixer trucks (single or tandem axle); A-frame and winch trucks when used as such; euclid, end and bottom dump; tournarockers; atheys; dumptors and similar off-road equipment and mechanics on such equipment
WELDERS: Recieve rates prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses. (29 CFR. 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Kansas COUNTY: Sedgwick
DECISION NO. KS80-4056 DATE: Date of Publication
Supersedes Decision No. KS80-4011 dated April 4, 1980 in 45 FR 23257
DESCRIPTION OF WORK: Building Construction Project (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	12.76	.945	1.00		.02
BOILERMAKERS	12.87	1.275	1.00		.05
BRICKLAYERS: STONEMASONS	11.48	.60	.50		.02
CARPENTERS:					
Carpenters	10.80	.50			.05
Millwrights, piledrivermen	11.10	.50			.05
CEMENT MASONS:					
Cement masons	11.10				
Troweling machine operator	11.35				
ELECTRICIANS	13.00	.75	3%+.50		2%
ELEVATOR CONSTUCTORS	11.37	1.195	.82	a	.035
FOOTNOTE: a-Employer contributes 8% of basic hourly rate for over 5 yrs.service, & 6% of basic hourly rate for 6 mos. to 5 years as vacation pay credit. Also 7 paid holidays.					
GLAZIERS	9.97	.75	.80	1.48	.05
IRONWORKERS	11.18		1.00	.53	.02
LABORERS (BUILDING CONSTRUCTION):					
Group 1 Common laborers	7.90	.60	.50		.05
Group 2 - Power tool operators, compactors, concrete breaker chipping tools, drilling tools, concrete saws, mechanically operated georgia buggy, mason tenders plaster tenders, mortar mixers for plasterers, mason and cement finishers, all stocking scaffold, clean up for masons (building & wrecking), Sand and concrete gun nozzleman, powderman	8.10	.60	.50		.05
LABORERS (SITE PREPARATION & GRADING)					
GROUP 1	5.60	.50	.50		.05
GROUP 2	5.75	.50	.50		.05
GROUP 3	5.85	.50	.50		.05
GROUP 4	6.00	.50	.50		.05
GROUP 5	6.10	.50	.50		.05

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CLASSIFICATION DEFINITIONS

LABORERS:
GROUP 1 - Board mat weavers & cable tiers, georgia buggy (manually operated) Mixerman-no skip, lift, nailers, salamander tenders, track men, tractor swamper, truck dumper, wire mesh setter water pump up to 4 inches, & all other general laborer including flagmen
GROUP 2 - Air tool operators, cement handlers (bulk) chain saw, georgia buggy (mechanically operated), grade man, hot mastic kettlemen, crusher feeder, joint man, jute man, mason tender, material batch hopper & scale man, mixer man, pier hole man working 10 ft. deep, pipelayer-drainage (concrete and/or corrugated metal), signal man (crane), truck dumperdry batch, vibrator operator, wagon and churn drill operator
GROUP 3 - Asphalt raker, barco tamper, concrete saw, creosote material handling & applying, nozzle burner (cutting torch and burning bar)
GROUP 4 - Conduit pipe, tile & duct line setter, form setter & liner on concrete paving, powderman, sandblasting & gunnite nozzleman, sanitary sewer layer, steel plate structure erectors, water and gas distrubution lines
GROUP 5 - Leadmen or pusher

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	9.90		.15		.01
LINE CONSTRUCTION:					
Linemen	13.07	.45	3%		1%
Cable splicers	13.72	.45	3%		1%
Groundman,	8.13	.45	3%		1%
Powderman	10.83	.45	3%		1%
Line truck & equipement operator	10.83	.45	3%		1%
PAINTERS:					
GROUP 1 - Brush, sheetrock taping and finishing	10.07	.10	.30		.01
GROUP 2 - Stage chair and window jack work to and including five stories high	10.67	.10	.30		.01
GROUP 3 - Stage chair and window jack work over five stories high elevated tanks, towers, & stack over 75 ft. high; sandblasting & water blasting work from picks; stage chairs or platforms 24 ft. in height	10.67	.10	.30		.01
GROUP 4 - Structural steel not done from scaffolding	10.82	.10	.30		.01
PLASTERERS	11.00				
PIPEFITTERS, PLUMBERS	13.24	.80	.90		.04

POWER EQUIPMENT OPERATORS BUILDING CONSTUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Master Mechanic	13.25	.75	1.00		
Cranes with lifting ring	12.25	.75	1.00		
Cranes and shovels-100 ft. of boom or over including jib or 30 tons or over or 2 yard capacity, three (3) drum hoist	11.50	.75	1.00		
Cranes and shovels-booms 200 ft. and over four (4) drum hoist, Frankie - type pile driving machines, and tower cranes and derricks	11.75	.75	1.00		
GROUP I	11.25	.75	1.00		
GROUP II	10.85	.75	1.00		
GROUP III					
CLASS A	9.55	.75	1.00		
CLASS B	9.80	.75	1.00		
GROUP IV					
CLASS A	9.00	.75	1.00		
CLASS B	9.25	.75	1.00		

WAGE CLASSIFICATIONS

GROUP I
Boiler (2), boom cat, boring machine, ditching machine, concrete ready-mix plant, crane, truck crane, clamshell dragline, dozer, scrapper, all types, patrol, firemen (when operating steam or air valve), gradall, hi-loaders (over one yard), hoist, two drum, mechanic or welder, mix-ermobile, paver, or any other machine with power swing, piledriver operator, power shovel, pump, concrete or other material, locomotive

GROUP II
A-frame truck, bob cat/hi-loaders (1 yard or under), barber-greene loader or similar type, boiler (1), ditching machine - small, elevator operator, fireman, forklift, hoist, or active drum, hydra hammer jeep ditcher, mixer, other than paver, power broom, pump 4" or larger, small machine engineer, welding machine (1), greaser equipment

GROUP III
CLASS A - Farm tractor (without attachments)
CLASS B - Farm tractor (with attachments)

GROUP IV
CLASS A - Oiler
CLASS B - Motor crane oiler

POWER EQUIPMENT OPERATORS Site Preparation and Grading	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	8.35	.50	1.00	.75	.10
Group 2	8.10	.50	1.00	.75	.10
Group 3	7.85	.50	1.00	.75	.10
Group 4	7.50	.50	1.00	.75	.10
Group 5	7.60	.50	1.00	.75	.10
Group 6	8.60	.50	1.00	.75	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS (Site Preparation and Grading):
Group 1 - Asphalt paver and spreader, backhoe; boring machine, blades, all types; clamshell; concrete mixer paver operator; concrete central plant operator (automatic); crane, truck crane, pitman crane, hydro crane, or any machine with power swing; derrick or derrick trucks; dragline operator; dredge operator; dozer; ditching machine; euclid loader; hoist -2 active drums; loader, all types, mechanic or welder; mixer-moble; track; scoop operator, all types; side boom cat-cherry picker; skimmer scoop operator; pushcat operator
Group 2 - Asphalt plant operator; elevating grader operator
Group 3 - A-frame truck; asphalt roller operator; asphalt plant boiler fireman; backfiller operator; barber greene loader; boiler other than asphalt; bull float operator; churn drill operator; compressor operator (1); concrete central plant operator; concrete mixer operator skip; concret pump operator; crusher operator, distributor operator; finish machine operator - concrete; fireman other than asphalt; flex plane operator, fork lift; form grader operator; greaser; hoist 1 drum; jeep ditching machine; pavement breakers, self-propelled (of the hydra hammer or similar type); pump operator, 4" or over, two; pump operator, other than dredge; screening and wash plant operator; small machine operator; spreader box operator, self-propelled; tractor operator over 50 h.p.; self-propelled roller operator, other than asphalt; siphon and jets; subgrading machine operator; tank car heater operator, combination booster and boiler; towboat operators; vibrating machine operator, not hand
Group 4 - Concrete gang saw, self-propelled (con-cut); conveyor operator; Harrow, disc seeder; oiler; tractor operator, 50 h.p. or less without attachments
Group 5 - Oiler, motor crane
Group 6 - Master mechanic

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Roofers, Kettlemen	10.50	.48			.02
Pitch	11.25	.48			.02
SHEET METAL WORKERS	12.14	38+1.18	.66		.14
SPRINKLER FITTERS	14.10	.85	1.20		.08
TRUCK DRIVERS (BUILDING CONSTRUCTION):					
Group 1 - Pickups, Station wagons, flat beds 12,000 & under GVW lincense capacity	8.90	.50	.35		
GROUP 2 - Flat beds-16,000 & GVW lincense capacity	8.975	.50	.35		
GROUP 3 - Flat beds-20,000 & over GVW lincense capacity, dump, batch & water truck, single axle	9.05	.50	.35		
GROUP 4 - Lowboys, semi-trailers dumpstors, a-frame tandems winch truck when used as such & transit mix	9.15	.50	.35		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (SITE PREPARATION AND GRADING):					
Group 1	$8.20	.45	.50		
Group 2	8.30	.45	.50		
Group 3	8.45	.45	.50		

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS:
Group 1 - pickups; panel trucks; station wagons; flat beds; dump and batch trucks (single axle)
Group 2 - Tandem trucks, Warehousemen or partsmen; mechanic helpers and servicemen
Group 3 - Lowboys; semi-trailers, all transit mixer trucks (single or tandem axle); A-frame and winch trucks when used as such; eucid, end and bottom dump; tournarockers; atheys; dumptors and similar off-road equipment and mechanics on such equipment
WELDERS: Recieve rates prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR. 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Michigan
DECISION NO. MI80-2042
Supersedes Decision No. MI79-2020, dated June 1, 1979 in 44 FR 31842
DESCRIPTION OF WORK: Highway, Bridge, Airport and Sewer Construction Projects exclusive of Buildings

COUNTIES: Statewide
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
ZONE 1					
MACOMB, MONROE, OAKLAND, ST. CLAIR & WAYNE COUNTIES: in LIVINGSTON COUNTY The Townships of Brighton, Deerfield, Genoa, Hartland, Osceola & Tyrone, In SANILAC COUNTY That part East of a line projected North & continuing the East Lapeer & West St. Clair county lines to South Huron County line	$12.78	1.00	11%	11%	.04
ZONE 2E					
ARENAC, BAY, CLARE, CLINTON, GENESEE, GLADWIN, GRATIOT HURON, INGHAM ISABELLA, IOSCO, JACKSON, LAPEER, LENAWEE, MIDLAND, OGEMAW, SAGINAW, SHIAWASSEE, TUSCOLA & WASHTENAW COUNTIES: the Remainder of LIVINGSTON & SANILAC COUNTIES: in EATON COUNTY, All but the Townships of Bellevue, Kakamo, Vermontville & Walton; in IONIA COUNTY, the Townships of Danby, Orange, Portland & Sevewa	11.88	.60	.80		.05
ZONE 2W					
ALLEGAN, BARRY, BRANCH, CALHOUN CASS HILLSDALE, KALAMAZOO, KENT, LAKE, MANISTEE, MASON, MESOCTA, MONTCALM, MUSKEGON, NEWAYGO, OCEANA, OTTAWA, ST. JOSEPH & VAN BUREN COUNTIES; the Remainder of EATON & IONIA COUNTIES; in BERRIEN COUNTY, all but the Townships of Chicaming, New Buffalo & 3 Oaks; in BENZIE COUNTY, the Townships of Blaine, Colfax, Crystal, Lake Gimore, Joyfield & Waldon	11.75	60	80		.05

DECISION No. MI80-2042

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (CONT'D)					
ZONE 3LP					
ALCONA, ALPENA, ANTRIM, CHARLEVOIX, CHEBOYGAN, CRAWFORD, EMMET, GRAND TRAVERSE, KALKASKA, LEELANAU, MISSAUKEE, MONTMORENCY, OSEOLA, OSCADA, OTSEGO, PRESQUE, ISLE ROSCOMMON & WEXFORD COUNTIES & The remainder of BENZIE COUNTY	$11.64	.60	.80		.05
ZONE 3UP					
ALGER, BARAGA, CHIPPEWA, DELTA, DICKINSON. GOGEBIC HOUGHTON, IRON, KEWEENAW, LUCE, MACKINAC, MARQUETTE, MONOMINEE, ONTONAGON & SCHOOLCRAFT COUNTIES	11.59	.60	.80		.05
ZONE 4					
THE REMAINDER OF BERRIEN COUNTY	13.53	.75	.82		.05
CEMENT MASONS:					
ZONE 1					
GENESEE, LIVINGSTON, MACOMB, MONROE, OAKLAND, SAGINAW, WASHTENAW & WAYNE COUNTIES Cement masonry related to Highway, Road & Street Construction	13.32	.80	.75		.02
ZONE 2 - Remainder of State	12.87	.80	.75		.02
PAINTERS:					
KENT, MONTCALM, MECOSTA & the West ½ of IONIA COUNTIES only: Brush	10.30	.50	.25		.02
Bridges over Highway or Railroads	10.55	.50	.25		.02
Bridge Work over Rivers Lakes & Electrical Sub Stations	10.80	.50	.25		.02
Spray, Pressure Roller, Steam Cleaning, Sandblasting or Waterblasting	11.05	.50	.25		.02

DECISION No. MI80-2042

IRONWORKERS: Structural & Reinforcing	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr Tr
ZONE 1					
Alger, Baraga, Chippewa, Delta, Dickinson Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon Schoolcraft Counties	$11 05	70	1 00	1 70	04
ZONE 2					
Emmet, Charlevoix, Antrim, Leelanau, Benzie, Grand Traverse, Kalkaska, Mason, Manistee, Wexford, Missaukee, Lake, Osceola Oceana, Mecosta, Newaygo, Muskegon, Kent, Montcalm, Ottawa, Ionia, Allegan, Barry, Eaton, Van Buren, Kalamazoo, Calhoun, St. Joseph, Branch & Hillsdale Counties	13 08	6%	8%		.10
ZONE 3					
Remainder of State					
Structural	12 59	9%	17%	18%	09
Reinforcing	11 94	1 23	15%	16%	07

DECISION No. MI80-2042

LABORERS: HIGHWAY, BRIDGE, AIRPORT & SEWER CONSTRUCTION	Basic Hourly Rates ZONE 1	Basic Hourly Rates ZONE 2	Basic Hourly Rates ZONE 2A	Basic Hourly Rates ZONE 3	Basic Hourly Rates ZONE 3A
CLASS A	$11 13	$10 46	$10 10	$ 9.97	$ 9 79
CLASS B	10 87	10 17	9 84	9.61	9 43
CLASS B-1	10 71	10 29	9 93	9 94	9.76
CLASS B-2	10 49	10 07	9.71	9 73	9 55
CLASS C	10 63	9 98	9 63	9 55	9 37
CLASS D	10 49	9 79	9 44	9.31	9 13
CLASS E	10 40	9 73	9 37	9.19	9 01
CLASS F	10 37	9 62	9 27	9 13	8 95
CLASS G	10 37	9 62	9.27	9 13	8.95
CLASS H	7 37	6 62	6 27	6 13	5 95

.75 Health & Welfare
.50 Pension
.75 Vacation and Holiday
.04 Apprentice Training

CLASS A - Line Form Setter for curb or pavement
CLASS B - Pipe Layers, Oxygen Gun
CLASS B-1 - Asphalt Raker
CLASS B-2 - Asphalt Tamper and Asphalt Raker Helper
CLASS C - Tunnel Miner (highway work only), Finishers Tenders, Guard Rail Builder, Highway and Median Barrier Installer, Fence Erector, Bottom Man, Powderman, Wagon Drill and Air Track Operators, Curb and Side Rail Setters' Helpers, Diamond and Core Drills
CLASS D - Mixer Operator (less than 4 sacks), Air or Electric Tool Operator (Jackhammer, etc) Spreader, Boxman (asphalt, stone, gravel, etc), Concrete Paddler Power Chain Saw Operator, Paving Batch Truck Dumper, Asphalt Screed Checker, Grade Checker and Tunnel Mucker (highway work only), Concrete Saw (under 40 h p) and Dry Pack Machine
CLASS E - Cement Handler or Dockman Topman, Asphalt Dust Handler
CLASS F - Asphalt Shoveler, or Loader, Asphalt Palt Misc., Axe Man, Batch Bin (no power), Burlap Man, Carpenter Tenders, Subgrade Labor (hand tools), Yard Man, Guard Rail Builders Tenders, Highway and Median Barrier Installer's Tenders, Fence Erector Tenders, Dumper (wagon, truck, etc.), Tetting Labor, Joint Filling Labor, Unskilled Labor, Powder Monkey Tenders, Sprinkler Labor, Form Setting Labor, Pavement Reinforcing, Handling and Placing (e g wire mesh, steel mats, dowell Boards, etc), Masonns or Bricklayer tenders on maholes, headwall, etc
CLASS G - Pavement Markers
CLASS H - Cone Setters

ZONE DEFINITIONS
ZONE 1 - Genesee, Macomb, Monroe, Oakland, Washtenaw & Wayne Counties
ZONE 2 - Allegan, Barry, Bay, Berrien, Branch, Calhoun, Cass, St Clair, Clinton Eaton Gratiot, Hillsdale Huron, Ingham, Jackson, Kalamazoo, Lapeer, Lenawee Livingston, Midland, Muskegon, St Joseph, Saginaw, Sanilac, Shiawassee, Tuscola, & Van Buren
ZONE 2A - Ionia, Kent Montcalm, & Ottawa Counties

ZONE 3 - Alcona, Alger, Alpena, Antrim, Arenac, Baraga, Benzie, Charlevoix, Cheboygan, Chippewa, Clare, Crawford, Delta, Dickinson, Emmet, Gladwin, Geogebic Grand Traverse, Houghton, Iosco, Iron, Isabella, Kalkaska, Keweenaw, Lake, Leelanau, Luce, Mackinac, Manistee, Marquette, Mason, Menominee, Missauke, Montmorency, Newaygo, Oceana, Ogemaw, Ontonagon, Oscoda, Otesego, Presque Isle, Roscommon, Schoolcraft, and Wexford Counties

ZONE 3A - Mecosta and Osceola Counties

LABORERS: OPEN CUT CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - WAYNE, OAKLAND & MACOMB COUNTIES					
CLASS 1	$ 9.26	$ 1.00	.95	.95	.04
CLASS 2	9.34	1.00	.95	.95	.04
CLASS 3	9.39	1.00	.95	.95	.04
CLASS 4	9.44	1.00	.95	.95	.04
CLASS 5	9.49	1.00	.95	.95	.04
ZONE 2 - WASHTENAW & SOUTH EAST PART OF LIVINGSTON COUNTY					
CLASS 1	9.20	.65	.35	.55	.04
CLASS 2	9.28	.65	.35	.55	.04
CLASS 3	9.33	.65	.35	.55	.04
CLASS 4	9.38	.65	.35	.55	.04
CLASS 5	9.43	.65	.35	.55	.04
ZONE 3 - SANILAC, ST. CLAIR & MONROE COUNTIES					
CLASS 1	9.20	.65	.35	.55	.04
CLASS 2	9.30	.65	.35	.55	.04
CLASS 3	9.40	.65	.35	.55	.04
CLASS 4	9.45	.65	.35	.55	.04
CLASS 5	9.55	.65	.35	.55	.04
ZONE 4 - JACKSON, HILLSDALE & LENAWEE COUNTIES					
CLASS 1	8.90	.65	.35	.55	.04
CLASS 2	9.00	.65	.35	.55	.04
CLASS 3	9.10	.65	.35	.55	.04
CLASS 4	9.15	.65	.35	.55	.04
CLASS 5	9.25	.65	.35	.55	.04

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DECISION No. MI80-2042

LABORERS: OPEN CUT CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 5 - CLINTON, EATON, INGHAM, WESTERN PART OF LIVINGSTON & CITY OR PORTLAND IN IONIA COUNTY					
CLASS 1	$ 9.20	.65	.35	.55	.04
CLASS 2	9.30	.65	.35	.55	.04
CLASS 3	9.40	.65	.35	.55	.04
CLASS 4	9.45	.65	.35	.55	.04
CLASS 5	9.55	.65	.35	.55	.04
ZONE 6 - GENESEE, LAPEER & SHIAWASSEE COUNTIES					
CLASS 1	8.80	.65	.75	.55	.04
CLASS 2	8.90	.65	.75	.55	.04
CLASS 3	9.00	.65	.75	.55	.04
CLASS 4	9.05	.65	.75	.55	.04
CLASS 5	9.15	.65	.75	.55	.04
ZONE 7 - SAGINAW, BAY, MIDLAND GRATIOT, TUSCOLA, ISABELLA, HURON, CLARE, GLADWIN, ARENAC, ROSCOMMON & OGEMAW COUNTIES					
CLASS 1	9.15	.65	.35	.55	.04
CLASS 2	9.25	.65	.35	.55	.04
CLASS 3	9.35	.65	.35	.55	.04
CLASS 4	9.40	.65	.35	.55	.04
CLASS 5	9.50	.65	.35	.55	.04
ZONE 8 - BARRY, CALHOUN, BRANCH, ALLEGAN, KALAMAZOO, ST. JOSEPH, VAN BUREN, BERRIEN, CASS, MUSKEGON, OCEANA, NEWAYGO, S.W. PART OF EATON TO CITY OF OLIVET & EASTERN PART OF LAKE COUNTY					
CLASS 1	8.15	.65	.35	.55	.04
CLASS 2	8.25	.65	.35	.55	.04
CLASS 3	8.35	.65	.35	.55	.04
CLASS 4	8.40	.65	.35	.55	.04
CLASS 5	8.50	.65	.35	.55	.04

DECISION No. MI80-2042

SW LAB OC

LABORERS OPEN CUT CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 9 - OSCELA, MECOSTA, KENT, MONTCALM, OTTAWA, IONIA, (EXCEPT CITY OF PORTLAND) COUNTIES					
CLASS 1	$ 7.60	.65	.35	.55	.04
CLASS 2	7.70	.65	.35	.55	.04
CLASS 3	7.80	.65	.35	.55	.04
CLASS 4	7.85	.65	.35	.55	.04
CLASS 5	7.95	.65	.35	.55	.04
ZONE 10 - MANISTEE, MASON, EMMET, CHEBOYGAN, ANTRIM, CHARLEVOIX, OTESGO, LEELANAU, BENZIE, GRAND TRAVERSE, KALKASKA, CRAWFORD, WEXFORD, MISSAUKEE, PRESQUE ISLE, MONTMORENCY, ALPENA, OSCODA, ALCONA & IOSCO COUNTIES.					
CLASS 1	7.25	.65	.35	.55	.04
CLASS 2	7.35	.65	.35	.55	.04
CLASS 3	7.45	.65	.35	.55	.04
CLASS 4	7.50	.65	.35	.55	.04
CLASS 5	7.60	.65	.35	.55	.04
ZONE 11 ENTIRE UPPER PENINSULA					
CLASS 1	8.27	.65	.35	.55	.04
CLASS 2	8.37	.65	.35	.55	.04
CLASS 3	8.47	.65	.35	.55	.04
CLASS 4	8.52	.65	.35	.55	.04
CLASS 5	8.57	.65	.35	.55	.04

LABORERS: OPEN CUT CONSTRUCTION

CLASS 1 - Construction Laborer
CLASS 2 - Mortar & Material Mixers, Concrete Form Man, Signal Man, Well Point Man, Manhole, Headwall & Catch Basin Builder, Guard Rail Builders & Fence Erectors
CLASS 3 - Air, Gasoline, Electric Tool Opr., Vibrator Opers., Driller, Pumpman Tar Kettle Opr., Bracers, Rodder - Reinforced Steel or Mesh (under 40 H.P.) Windlass & Tugger Man
CLASS 4 - Trench or Excavating Grade Man
CLASS 5 - Pipelayers (inclu.crock, metal pipe, multi-plate or other counduits)

DECISION No. MI80-2042

SW LAB TSC

LABORERS: TUNNEL, SHAFT & CAISSON CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - WAYNE, OAKLAND & MACOMB COUNTIES					
CLASS 1	$ 9.26	1.00	.95	.95	.04
CLASS 2	9.34	1.00	.95	.95	.04
CLASS 3	9.39	1.00	.95	.95	.04
CLASS 4	9.54	1.00	.95	.95	.04
CLASS 5	9.74	1.00	.95	.95	.04
CLASS 6	9.99	1.00	.95	.95	.04
ZONE 2 - ALL COUNTIES IN THE UPPER & LOWER PENINSULA OF MICHIGAN EXCLUDING WAYNE, OAKLAND, MACOMB, GENESEE, SHIAWASSEE & LAPEER COUNTIES					
CLASS 1	9.83	.65	.35	.55	.04
CLASS 2	9.91	.65	.35	.55	.04
CLASS 3	9.96	.65	.35	.55	.04
CLASS 4	10.11	.65	.35	.55	.04
CLASS 5	10.31	.65	.35	.55	.04
CLASS 6	10.56	.65	.35	.55	.04

DECISION No. MI80-2042 SW LAB TSC

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TUNNEL, SHAFT & CAISSON CONSTRUCTION					
ZONE 3 - GENESEE, SHIAWASSEE & LAPEER COUNTIES					
CLASS 1	$ 9.43	.65	.75	.55	.04
CLASS 2	9.51	.65	.75	.55	.04
CLASS 3	9.56	.65	.75	.55	.04
CLASS 4	9.71	.65	.75	.55	.04
CLASS 5	9.91	.65	.75	.55	.04
CLASS 6	10.16	.65	.75	.55	.04

CLASS 1 - Tunnel, Shaft & Caisson Laborer, Dump Man, Shanty Man, Hog House Tender, Testing Man (on gas)

CLASS 2 - Manhole, Headwall, Catch Basin Builder, Bricklayer Tender, Mortar Man, Material Mixers, Fence Erector & Guard Rail Builder

CLASS 3 - Air Tool Operator (Jackhammerman, Brush Hammerman & Grinding Man) First Bottom Man, Second Bottom Man, Gage Tender, Car Pusher, Carrier Man, Concrete Man, Concrete Form Man, Concrete Repair Man, Cement Invert Laborer, Cement Finisher, Concrete Shoveler, Conveyor Man, Floor Man, Gasoline & Electric Tool Operator, Gunnite Operator, Pump Man Outside Lock Tender, Scaffold Man,Top Signal Man,Switch Man, Track Man, Tugger man, Utility Man, Winch Operator, Concrete Saw Opr. (Under 40 H.P.)

CLASS 4 - Tunnel, Shaft & Caisson Mucker, Bracer, Man, Under Plate Man, Long Haul Dinky Driver & Well Point Man

CLASS 5 - Tunnel, Shaft & Caisson Miner, Drill Runner, Keyboard Opr. Power Knife Operator, Reinforced Steel or Mesh Man (Wire Mesh, Steel Mats, Dowell Bars, Etc.)

CLASS 6 - Dynamite Man & Powderman

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HIGHWAY CONSTRUCTION: PLANTING OF TREES & SHRUBS ONLY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LANDSCAPE LABORERS:					
ZONE 1 Washtenaw, Genesee, Lapeer, Shiawassee, Oakland, Wayne Monroe, Livingston, St. Clair & Macomb Counties					
ZONE 2 Remainder of Counties					
CLASS A Landscape Specialist, including air, gas diesel, electric tool and/or equipment					
Zone 1	$ 7.21				
Zone 2	6.79				
CLASS B Landscape Laborer, Truck Driver, Material Haulers & Small Power Equipment					
Zone 1	5.46				
Zone 2	5.04				

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HWY LC 2-I & II

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - Huron, Lapeer, Macomb, St. Clair, Sanilac, Tuscola & Wayne Counties; Ingham County - The townships of Leroy, Locke, Wheatfield, White Oak, & Williamson: Lenawee County - Townships of Clinton & Macon; Livingston County - All but the Townships of Tyrone, Cohoctah, Deerfield and Unadilla; Monroe County - all but the Townships of Bedford, Erie, Lasalle and Whiteford Washtenaw County - all but the Townships of Lyndon, Manchester, Sharon, Sylvan & Remainder of Oakland County.					
Linemen- Technician	$14.38	1.50	9%		½%
Cable Splicer	15.00	1.50	9%		½%
Combination Equip. Operator & Groundman	11.52	1.50	9%		½%
Combination Drivers - Groundman	10.84	1.50	9%		½%
Groundman	9.98	1.50	9%		½%
ZONE 2 - Remainder of State					
Linemen & Technician	12.50	.45	3%	5%+a	.5%
Cable Splicers	13.01	.45	3%	5%+a	.5%
Combination Digger Operator Tractor Operator - Groundman	9.75	.45	3%	5%+a	.5%
Light Equipment Operator; Distribution Line Truck Driver Operator- Groundman	8.56	.45	3%	5%+a	.5%
Combination Winch Truck Driver Groundman	8.17	.45	3%	5%+a	
Combination Truck Driver - Groundman	6.92	.45	3%	5%+a	.5%

FOOTNOTE: a - 7 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day, Thanksgiving Day; Day after Thanksgiving & Christmas Day, Providing the employee worked the scheduled work day preceding and the next work day following the day observed.

MICH -10-PEO-3

DECISION No. MI80-2042 HIGHWAY, BRIDGE AIRPORT & HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 Wayne, Monroe, Washtenaw Oakland, Macomb & Genesee					
CLASS 1	$11.38	1.05	1.75	12%	*10
CLASS 2	11.02	1.05	1.75	12%	*10
CLASS 3	10.57	1.05	1.75	12%	*10
CLASS 4	10.44	1.05.	1.75	12%	*10
ZONE 2 - Remainder of State					
CLASS 1	11.38	1.05	1.75	12%	*10
CLASS 2	10.91	1.05	1.75	12%	*10
CLASS 3	10.45	1.05	1.75	12%	*10
CLASS 4	10.20	1.05	1.75	12%	*10
*.05 - Retiree Benefit Fund added to AP.TR. Fund					

CLASS 1 - Asphalt Plant, Cranes, Draglines, Shovels, Locomotives, Pavers (5 bags or more), Elevating Graders, Pile Driver, Roller(Asphalt);Blade Grader, Trenching Mach. (ladder or wheel), Auto-Grader, Slip Form Paver, Self-Propelled or Tractor drawn, Scraper, Conveyor Loader (euclid type), Enloader (1 yd, & over), Bulldozer, Hoisting Eng., Tractor, Finishing (asphalt), Mechanic, Pump (6" discharge or over, gas, diesel powered or generator 300 amp or more), Shouldering or Gravel Dist. Mach. (self-propelled), Backhoe (over 3.8 yd. bucket), Side Boom Tractor (type D-4 or larger), Tube Finisher (slip form paving), Gradall & Similar Mach., Self-Propelled Asphalt Planer, Concrete Batch Plant, Asphalt, Slurry Mach. Selt-Propelled Asphalt Paver,Concrete Pump (3" & Over)

CLASS 2 - Sweeper (wayne type & similar equipment), Screening Plant, Washing Plant, Crusher, Backhoe (3/8 yd. Bucket or less), Side Boom Top Signal Man, Switch Man

CLASS 3 - Air Compressor (600 cu. ft. per min. or more), Air Compressor (2 or more less than 600 cfm), Wagon Drill, Concrete Breaker, Farm Tractor (w/attachments).

CLASS 4 - Oiler, Firemen. Mechanic Helper, Trencher (service)Flexpanes Cleftpanne, Graders Selfpropelled Fine Grade Form (concrete), Concrete Finishing Mach., Boom or Winch Hoist Truck, Endloader (under 1 yd.Cap.), Roller (other than asphalt), Curing Equipment (self-propelled),Concrete Saw (40 HP up), Power Bin, Asphalt Plant Driver, Vibratory Compaction Equipment., Power Driver Guard Post Driver, Mulching Equipment, Stump Remover, Boiler Firemen, Concrete Dump (under 3"), Self Propelled Mesh Installer, Farm Type Tractor.

DECISION No. MI80-2042

MICH-8-PEO-U-Z-1

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE1 Wayne, Oakland, Macomb, Monroe, Lenawee, Hillsdale, Branch, Calhoun, Jackson, Washtenaw, Livingston, Ingham, Eaton, Clinton, Shiawassee, Genesee, Lapeer, St. Clair, Sanilac, Tuscola, Saginaw, Gratiot, Midland, Bay & Huron Counties					
CLASS I	$10.61	.80	1.00	10%	.05
CLASS II	10.49	.80	1.00	10%	.05
CLASS III	9.83	.80	1.00	10%	.05
CLASS IV	9.31	.80	1.00	10%	.05
ZONE 2 - Remainder of State					
CLASS I	9.24	.80	1.00	10%	.05
CLASS II	8.98	.80	1.00	10%	.05
CLASS III	8.52	.80	1.00	10%	.05
CLASS IV	8.27	.80	1.00	10%	.05

CLASS I - Power Shovel, Crane (Crawler, truck type or Pile Driving), Dragline, Backhoe, Clamshell Trencher (over 8' digging capacity), Mechanic Endloader (over 1½ cu. yd. cap.), Scraper (selfpropelled or Tractor drawn), Dozer (9 blade & over),Concrete Paver(2 drum or larger), Side Boom Tractor (type D-4 or equivalent 7 larger), Elevating Grader, Roller (asphalt), Gradall (and similar type machine), Batch Plant Oper., (concrete), Backfiller Tamper. Well Drilling Rig, Slip Form Paver, Slope Paver, Conveyor Loader (euclid type) Grader

CLASS II - Trencher (8' digging capacity & smaller), Endloader (1½ cu.yd. capacity & smaller), Dozer (less than 9' blade),Side Boom Tractor(Smaller) or diesel powered or powered by generator of 300 amps or more-Inclusive of other than Backhoe or Front Endloader), Crusher

CLASS III - Air Compressor (2 or more -Less than 600 CFM),Air Compressors (600 cu. ft. per min or larger), Pumpcrete Machine(& smaller equipment Mechanic Helper, Maintenance Man, Boom Truck (non-swinging, non-powered type boom), Welding Machine or Generator (2 or more-300 amp or larger - gas or diesel powered), Pump (2 or more 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), Concrete Paver (1 drum ½ yd. or larger), Wagon Drill (multiple), Elevator (other than passenger), Concrete Breaker (self-propelled or truck mounted - includes compressor)

CLASS IV - Hydraulic Pipe Pushing Machine, Pumps (2 or more up to 4" discharge if used 3 hours or more a day - Gas or Diesel Powered - excl. equipment, Self Propelled (6' wide or over), Stump Remover, Mulching Equipment, Farm Tractor (with attachment), Finishing Machine (concrete), Roller (other than asphalt, curing machine (self-propelled), Concrete Saw (40 HP or over)

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SIGN INSTALLERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A Performs all necessary labor and uses all tools & equipment required to construct & set concrete forms required in the installation of highway street signs:					
ZONE 1	$ 8.32	20.00a	22.00a	.15	
ZONE.2	7.73	20.00a	22.00a	.15	
CLASS B Performs all miscellaneous labor, uses all hand power tools and operates all other equipment mobile or otherwise, required for the complete installation of highway and street signs:					
ZONE 1	8.07	20.00a	22.00a	.15	
ZONE 2	7.48	20.00a	22.00a	.15	

FOOTNOTE:

a. Per week Per employee

ZONE 1 - Genesee, Macomb, Monroe, Oakland, Washtenaw & Wayne Counties
ZONE 2 - Remainder of State

DECISION No. MI80-2042

MICH-SWH-TD

TRUCK DRIVERS - HIGHWAY, BRIDGE, AIRPORT & SEWER CONST	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appt. Tr.
ZONE 1					
Genesee, Lapeer, Lenawee, Livingston. Macomb, Monroe, Oakland, St. Clair, Washtenaw & Wayne					
CLASS 1	$11.44	36.50a	46.00a	.50	
CLASS 2	11.54	36.50a	46.00a	.50	
CLASS 3	11.69	36.50a	46.00a	.50	
ZONE 2					
CLASS 1	11.34	36.50a	46.00a	.50	
CLASS 2	11.44	36.50a	46.00a	.50	
CLASS 3	11.59	36.50a	46.00a	.50	

TRUCK DRIVERS - ZONES 1 & 2

CLASS 1 - Truck Driver (on all trucks except dump trucks of 8 cubic yds. capacity or over, Tandem Axle Trucks, Transit Mix and Semis, Euclid Type Equipment, Double Bottoms and Low Boys)

CLASS 2 - Truck Drivers on Dump Trucks of 8 Cubic yards capacity or over (including Tandem Axle Trucks, Tandem Axle Water Trucks, Transit Mix and Semis.)

CLASS 3 - Euclid Type Equipment, Double Bottoms and Low Boys for hauling heavy equipment

FOOTNOTE:
a. Per week, Per employee

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MICH-SWH-TD

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appt. Tr.
UNDERGROUND CONSTRUCTION					
Wayne, Oakland, Macomb, Washtenaw, Monroe, St. Clair & Genesee Counties					
CLASS 1	$10.31	36.50a	37.00a		
CLASS 2	10.44	36.50a	37.00a		
CLASS 3	10.64	36.00a	37.00a		
Lapeer & Shiawassee Counties:					
CLASS 1	10.21	36.50a	37.00a		
CLASS 2	10.34	36.50a	37.00a		
CLASS 3	10.54	36.50a	37.00a		
Jackson, Lenawee & Hillsdale Counties					
All Truck Drivers	7.30	10.00a	22.00a		

CLASS 1 - Truck Driver (except dump trucks of 8 cubic yards capacity or over), Pole Trailers, Semis, Low Boys, Euclid, Double Bottom & Fuel Trucks.
CLASS 2 - Truck Driver on Dump Trucks of 8 cubic yards capacity or over, Pole Trailers, Semis & Fuel Trucks
CLASS 3 - Low Boy, Euclid & Double Bottom Driver

FOOTNOTE:
a. Per week Per employee

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Nebraska

COUNTIES: Banner, Box Butte, Cheyenne, Dawes, Deuel, Garden, Kimball, Morrill, Scotts Bluff, Sheridan, Sioux

DECISION NO: NE80-4058

DATE: Date of Publication

Supersedes Decision No. NE77-4040 dated February 25, 1977 in 42 FR 11223

DESCRIPTION OF WORK: Building Projects, (excluding single family homes and apartments up to and including four (4) stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	12.00				
CARPENTERS	7.50				
CEMENT MASONS	6.25				
ELECTRICIANS	7.00				
GLAZIERS	6.00				
IRONWORKERS	7.00				
LABORERS:					
Laborers	4.00				
Mason tenders	5.00				
PAINTERS	7.50				
PLUMBERS	9.00				
ROOFERS	5.00				
SHEET METAL WORKERS	9.00				
TILE SETTERS	10.20				
POWER EQUIPMENT OPERATORS:					
Front End Loader	7.00				

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))."

SUPERSEDEAS DECISION

STATE: Nebraska

COUNTIES: Cedar, Cuming, Pierce, Stanton and Wayne Counties

DECISION NO. NE80-4059

DATE: Date of Publication

Supersedes Decision No. NE77-4067 dated March 18, 1977 in 42 FR 15272

DESCRIPTION OF WORK: Building Projects, (excluding single family homes and apartments up to and including four (4) stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	9.40				
CARPENTERS	5.00				
CEMENT MASONS	5.00				
ELECTRICIANS	6.78				
IRONWORKERS	4.50				
LABORERS	4.17				
PLUMBERS	6.00				
ROOFERS	5.50				
SHEET METAL WORKERS	6.25				
POWER EQUIPMENT OPERATORS:					
Bulldozers	5.50				
Finishing Machine	5.00				

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))."

SUPERSEDEAS DECISION

STATE: New Mexico COUNTY: Statewide
DECISION NO.: NM80-4057 DATE: Date of Publication
Supersedeas Decision No. NM79-4103 dated November 2, 1979 in 44 FR 63443
DESCRIPTION OF WORK: General Building and Heavy Engineering construction shall include the construction, alteration, repair and demolition of buildings, including residential buildings, office buildings, warehouses, industrial and commercial buildings, institutional and public buildings, and all airconditioning, conduit, heating and other mechanical and electrical works and site preparation for building or heavy engineering projects under this classification; stadia; and shall include electrical, gas, water, sewer lines, and other such utility construction which are part of projects under this classification and included within the property line or less than five (5) feet from the building or heavy engineering structure, whichever is closer, provided, however, regard to electrical utilities such construction shall include construction from the first attachment of incoming power source without regard to the property line or proximity to the building or the heavy engineering structure; and include construction, alteration, repair and demolition of heavy engineering work such as power generating plants, pump stations, natural gas compressing stations; covered reservoirs and covered sewage and water treatment facilities; concrete linings for canals, ditches and channels; concrete dams; earth dams of one million (1,000,000) cubic yards or over; radio towers, ovens, furnaces, kilns, silos, shafts and tunnels (other than highway shafts and tunnels), hydroelectric projects; and well drilling, telephone and electrical transmission lines which are part of general building and heavy engineering projects; mining appurtenances such as tipples, washeries and loading and discharging chutes, and specialized structures for testing, launching and recovering space and other rocket-type missiles, (ALSO INCLUDING RESIDENTIAL PROJECTS IN SANTA FE, BERNALILLO, RIO ARRIBA, TAOS, SANDOVAL AND VALENCIA COUNTIES), BUT DOES NOT INCLUDE HEAVY CONSTRUCTION ON THE NAVAJO INDIAN RESERVATION.

BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
(Statewide, except Union, Lea, Harding, Curry, Roosevelt and Quay Cos.)	13.26	.50	1.37a		.06
Union, Harding, Lea, Roosevelt, Curry and Quay Cos.	11.95	.80	1.25		.02
BOILERMAKERS	11.65	1.275	1.25	.75	.04
BRICKLAYERS-STONEMASONS:					
Zone I-A	11.31	.77	.50		.10
Zone I-B	12.56	.77	.50		.10
Zone I-C	13.56	.77	.50		.10
Zone II	11.41	.77	.50		.10
Zone III	12.41	.77	.50		.10
Zone IV	11.51	.77	.40		.10
Zone V	12.51	.77	.40		.10
Zone VI	10.81	.77	.40		.10
Zone VII	11.61	.77	.40		.10
Zone VIII	12.24	.77	.30		.10
Zone IX	10.99	.77	.30		.10

BRICKLAYERS' ZONE DEFINITIONS

ZONE I - Union, Harding, Santa Fe, Valencia, Torrence, Taos, Socorro, Mora, McKinley, Colfax, Catron, San Miguel, San Juan, Sandoval, Rio Arriba, Bernalillo and Los Alamos Counties
From basing point of Albuquerque Main Post Office:
Zone I-A - 0 to 25 road miles
Zone I-B - 25 to 50 road miles
Zone I-C - Over 50 road miles
ZONE II - Curry and Roosevelt Counties
ZONE III - DeBaca, Guadalupe and Quay Counties
ZONE IV - Chaves County
ZONE V - Lincoln County
ZONE VI - Lee and Eddy Counties
ZONE VII - Otero Counties
ZONE VIII - Luna and Grant Counties, communities of Silver City, Bayard, Central, Hurley and new town site of Tyrone; HIdalgo and Sierra Counties
ZONE IX - Dona Ana County

BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Dwelling houses & apartments not to exceed two stories in height:					
Zone I-A	7.50	1.10	1.30	.65	.20
Zone I-B	8.75	1.10	1.30	.65	.20
Zone I-C	9.50	1.10	1.30	.65	.20
General Building, Heavy & Residential Construction (Dwelling houses and apartments over two stories in height):					
Zone 2-A	11.75	1.10	1.30		.20
Zone 2-B	13.25	1.10	1.30		.20
Zone 2-C	14.00	1.10	1.30		.20

CARPENTERS' ZONE DEFINITIONS

CARPENTER (STATEWIDE) - From nearest basing points of the following cities of Towns: Alamogordo, Albuquerque, Artesia, Bayard, Belen, Carlsbad, Clovis, Deming, Espanola, Eunice, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Santa Rosa, Silver City, Socorro, Taos, and Tucumcari:

ZONE I - Dwelling houses & apartments not to exceed two stories in height:
- Zone I-A - 0 - 15 road miles from nearest basing point
- Zone I-B - 15 to 35 road miles from nearest basing point
- Zone I-C - Over 35 road miles from nearest basing poing

ZONE II - General Building & Heavy Construction & Residential Construction (Dwelling houses & apartments over two stories in height:
- Zone 2-A - 0 - 15 road miles from nearest basing point
- Zone 2-B - 15 to 35 road miles from nearest basing point
- Zone 2-C - Over 35 road miles from nearest basing point

CARPENTERS - San Juan County Only					
Zone I	11.75	1.10	1.30		.20
Zone II	14.00	1.10	1.30		.20
Zone III	14.00	1.10	1.30		.20

SAN JUAN COUNTY ZONE DEFINITIONS FOR CARPENTERS

ZONE I - Within 15 road miles of the City of Farmington
ZONE II - More than 15 miles, but less than 35 miles from Farmington
ZONE III - 35 miles or more from the City of Farmington

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASON:					
Area I	$10.07	.77	.70		.20
Area II:					
Zone 1	10.07	.77	.70		.20
Zone 2	11.57	.77	.70		.20
Zone 3	11.82	.77	.70		.20
Cement masons (Residential)	8.67	.77	.70		.20
Cement masons (Heavy)	10.07	.77	.70		.20
CEMENT MASONS:					
Composition & Machine Oprs.					
Area I	10.32	.77	.70		.20
Area II:					
Zone 1	10.32	.77	.70		.20
Zone 2	11.82	.77	.70		.20
Zone 3	12.07	.77	.70		.20

CEMENT MASONS AREA DEFINITIONS

AREA I - Statewide except Farmington, San Juan County

AREA II - Farmington, San Juan County
- Zone I - 0 - 15 miles from Farmington City Hall
- Zone II - 15-35 miles from Farmington City Hall
- Zone III - 35 miles and over from Farmington City Hall

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Zone I					
1-A	12.55	.60	3%+.70		½%
1-B	13.43	.60	3%+.70		½%
1-C	14.18	.60	3%+.70		½%
1-D	15.06	.60	3%+.70		½%
Zone II	14.18	.60	3%+.70		½%
Zone III					
3-A	10.15	.45	3%		1/10%
3-B	11.60	.45	3%		1/10%
Zone IV					
4-A	12.20	.60	3%		.01
4-B	12.55	.60	3%		.01
4-C	12.70	.60	3%		.01
4-D	12.95	.60	3%		.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CABLE SPLICERS:					
Zone I					
1-A	$13.81	.60	3%+.70		½%
1-B	14.69	.60	3%+.70		½%
1-C	15.44	.60	3%+.70		½%
1-D	16.32	.60	3%+.70		½%
Zone II	15.44	.60	3%+.70		½%
Zone III					
3-A	10.40	.45	3%		1/10%
3-B	11.85	.45	3%		1/10%
Zone IV					
4-A	12.55	.60	3%		.01
4-B	12.90	.60	3%		.01
4-C	13.05	.60	3%		.01
4-D	13.30	.60	3%		.01

ELECTRICIANS-CABLE SPLICERS ZONE DEFINITIONS

ZONE I

Area 1 - Bernalillo, Santa Fe, Torrance, DeBaca, Guadalupe, Quay, San Miguel, Mora, Harding, Union, Colfax, Taos, Rio Arriba, Grant, Sandoval, Valencia, Socorro, Catron, McKinley, Sierra, San Juan, Chaves, Curry, Lincoln and Roosevelt Counties

Area 1-A - From nearest basing point cities, towns and mileage from main post office in the following towns:
Albuquerque - 15 miles from main post office
Santa Fe - 15 miles from main post office
Las Vegas - 8 miles from main post office
Farmington - 8 miles from main post office
Raton - 6 miles from main post office
Tucumari - 6 miles from main post office
Aztec - 6 miles from main post office
Roswell - 12 miles from main post office
Ruidoso - 12 miles from main post office
Portales - 12 miles from main post office
Carrizozo - 12 miles from main post office
Clovis - 12 miles from main post office
Gallup - 10 miles from main post office
*Pojoaque - 2 miles from main post office

*All areas adjacent to Pojoaque that are over two (2) miles distant from the main post office in that town will be zoned out of Santa Fe.

ZONE I CONTD:
Area 1-B - extending up to 20 miles beyond Area 1-A

Area 1-C - extending up to 30 miles from Area 1-A

Area 1-D - anything beyond 30 miles from Area 1-A

ZONE II - Los Alamos County

ZONE III - Dona Ana, Otero, Luna, Hidalgo Counties
Zone 3-A - Within 10 miles radius from the post office in Las Cruces and within a 5 mile radius from the post office in Alamogordo.
Zone 3-B - Dona Ana, Otero, Luna, and Hidalgo Counties (except that area specified in Zone 3-A)

ZONE IV - Eddy and Lea Counties - the following zones shall be designated from the main post office in Artesia, Carlsbad, Hobbs and Lovington:
Zone 4-A - 0 -12 miles from main post office
Zone 4-B - 12 - 22 miles from main post office
Zone 4-C - 22 - 40 miles beyond main post office
Zone 4-D - 40 miles and beyond main post office

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Bernalillo, Catron, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Socorro, Taos, Torrance, Union and Valencia Cos.:					
Elevator constructors	12.16	.895	.69	4%+b+c	.035
Elevator constructors helpers	70%JR	.895	.69	4%+b+c	.035
Chaves, Hidalgo, Dona Ana, Eddy, Grant, Lea, Luna, Otera and Sierra Cos.:					
Elevator constructors	8.88	.895	.69	4%+b+c	.035
Elevator constructors helper	70%JR	.895	.69	4%+b+c	.035
GLAZIERS	9.79	.70	.30		.04

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
ZONE I	11.80	.75	1.25		.18
ZONE II					
Area 1	11.80	.75	1.25		.18
Area 2	13.05	.75	1.25		.18
Area 3	13.80	.75	1.25		.18
Area 4	14.05	.75	1.25		.18
ZONE III	11.50	.55	1.65		.15
ZONE IV	12.50	.55	1.65		.15

IRONWORKERS ZONE DEFINITIONS

ZONE I - Bernalillo, Catron, Colfax, DeBaca, Guadalupe, Lincoln, Los Alamos, McKinley, Mora, Rio Arriba, Sandoval, Santa Fe, Socorro, Taos, Torrance, and Valencia Counties

ZONE II - Farmington, San Juan County
Area 1 - Shall extend a distance of 6 road miles inclusive beyond the City Hall
Area 2 - Shall extend a distance of 8 road miles inclusive beyond the outer perimeter of area 1
Area 3 - Shall extend a distance of 10 road miles inclusive beyond the outer limits of area 2
Area 4 - Shall extend a distance of 27 road miles inclusive beyond the outer limits of area 3
Other areas not within Area 1, 2, 3, and 4 shall revert to the $15.00 per day subsistence rate.

ZONE III - Dona Ana, county with the exception of that portion of the county that lies within the White Sands Missile Range; Chaves County, Eddy County except that Potash Basin and defined as the area 10 road miles on Highway 62 and Highway 180, east of Carlsbad.

ZONE IV - Curry, Harding, Quay, Union, Hidalgo, Grant, Lea, Luna, Otero and Sierra Counties; also Potash Basin, White Sands and McGregor Missile Ranges.

LABORERS: BUILDING					
Group I	7.98	.63	.80		.10
Group II	8.28	.63	.80		.10
Group III	8.28	.63	.80		.10
Group IV	8.58	.63	.80		.10
Group V	8.73	.63	.80		.10

LABORERS BUILDING CONSTRUCTION (FARMINGTON AREA - ONLY)
ZONE I - 0-15 miles from the City Hall in Farmington
ZONE II - 15-35 miles from the City Hall in Farmington
ZONE III - 35 miles and over from the City Hall in Farmington

FARMINGTON AREA ONLY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (BUILDING CONST.)					
ZONE I					
Group 1	$7.98	.63	.80		.10
Group 2	8.28	.63	.80		.10
Group 3	8.58	.63	.80		.10
Group 4	8.73	.63	.80		.10
ZONE II					
Group 1	9.08	.63	.80		.10
Group 2	9.38	.63	.80		.10
Group 3	9.68	.63	.80		.10
Group 4	9.83	.63	.80		.10
ZONE III					
Group 1	9.58	.63	.80		.10
Group 2	9.88	.63	.80		.10
Group 3	10.18	.63	.80		.10
Group 4	10.33	.63	.80		.10

BUILDING LABORERS CLASSIFICATION DEFINITION

GROUP I - Unskilled; building and common laborers, carpenter tenders, concrete workers, chainmen - stakedrivers, concrete buggy operators
GROUP II - Semi-skilled; air and power tool operator, asphalt rakers, demolition, gunite, rebound men, fog machine operator, power buggy operators, rodmen; sand blasterers(pot men), window washers, wagon, core diamond drillers tender; outside scaler, grade setter
GROUP III - Wagon core, diamond drillers
GROUP IV - Concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunite nozzlemen, pipelayers, pumpcrete nozzlemen
GROUP V - Powdermen and blasterers

LABORERS (HEAVY CONSTRUCTION AND SITE PREPARATION & DIRT WORK)

ZONE I - Statewide including 15 miles from Farmington Hall
ZONE II - 15 to 35 miles from Farmington Hall
ZONE III - 35 miles and over from Farmington Hall

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (HEAVY CONSTRUCTION)					
ZONE I					
Group 1	$7.98	.63	.80		.10
Group 2	8.28	.63	.80		.10
Group 3	8.38	.63	.80		.10
Group 4	8.58	.63	.80		.10
Group 5	8.73	.63	.80		.10
ZONE II					
Group 1	9.48	.63	.80		.10
Group 2	9.78	.63	.80		.10
Group 3	9.88	.63	.80		.10
Group 4	10.08	.63	.80		.10
Group 5	10.23	.63	.80		.10
ZONE III					
Group 1	9.98	.63	.80		.10
Group 2	10.28	.63	.80		.10
Group 3	10.38	.63	.80		.10
Group 4	10.58	.63	.80		.10
Group 5	10.73	.63	.80		.10
LABORERS (SITE PREPARATION AND DIRT WORK)					
ZONE I					
Group 1	7.61	.63	.77		.10
Group 2	7.91	.63	.77		.10
Group 3	8.01	.63	.77		.10
Group 4	8.21	.63	.77		.10
Group 5	8.36	.63	.77		.10
ZONE II					
Group 1	8.11	.63	.77		.10
Group 2	8.41	.63	.77		.10
Group 3	8.51	.63	.77		.10
Group 4	8.71	.63	.77		.10
Group 5	8.86	.63	.77		.10
ZONE III					
Group 1	8.61	.63	.77		.10
Group 2	8.91	.63	.77		.10
Group 3	9.01	.63	.77		.10
Group 4	9.21	.63	.77		.10
Group 5	9.36	.63	.77		.10

LABORERS (HEAVY CONSTRUCTION, SITE PREPARATION AND DIRT WORK) CLASSIFICATION DEFINITIONS

GROUP I - Unskilled - Construction and general laborers, carpenter tenders, concrete workers, stakedrivers, concrete buggy operators
GROUP II - Semi-skilled - Air and power tool operators, asphalt rakers, cutting torch operators, demolition, gunite rebound men, rod and chainmen, grade setters, power buggy operators, sand blasters (pot men), nozzlemen, wagon core and diamond drillers' tenders, outside scalers, fog machine operators
GROUP III - Wagon core, diamond drillers
GROUP IV - Miscellaneous - concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunite nozzlemen, pipelayers, pumpcrete nozzleman
GROUP V - Powdermen and blasters

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS RESIDENTIAL CONSTRUCTION					
Group I	5.02	.63	.80		.10
Group II	5.32	.63	.80		.10
Group III	5.62	.63	.80		.10

RESIDENTIAL LABORERS' CLASSIFICATION DEFINITIONS

GROUP I - Unskilled - Building and common laborers, carpenter tenders, concrete workers, chainmen - stakedrivers, concrete buggy operators, hand
GROUP II - Semi-skilled - air and power tool operator, asphalt rakers, demolition, gunnite rebound men, fog machine operator, power buggy operator, rodmen, sand blasterers (pot men), window washers, waqon, core and diamond drillers, tender outside
GROUP III- Concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunnite nozzlemen, pipelayer, pumpcrete nozzlemen

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Zone I	11.64	.77			.06
Zone II	12.56	.77			.01
Zone III	8.98	.77			.01

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LATHERS ZONE DEFINITIONS

ZONE I - Catron, Grant, Bernalillo, Roosevelt, Union, Sandoval, San Juan, Socorro, Torrance and Valencia Counties
ZONE II - Colfax, Los Alamos, Mora, Rio Arriba, San Miguel, Santa Fe and Taos Counties
ZONE III - Dona Ana and Otero Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LEAD BURNERS					
Zone I	13.25	.68	1.42		.16
Zone II	13.75	.68	1.42		.16
Zone III	15.00	.68	1.42		.16
Zone IV	13.88	.68	1.42		.16

LEAD BURNERS' BASING POINT & AREA DEFINITIONS

BASING POINT CITIES OR TOWNS:
Albuquerque, Alamorgordo, Anthony, Artesia, Belen, Carlsbad, Clovis, Deming, Espanola, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lovington, Portales, Raton, Socorro, Roswell, Ruidoso, Santa Fe, Silver City, Santa Rosa, Taos, Tucumcari and Truth of Consequence
Zone I - Shall include a distance of seven road miles inclusive beyond the city or town limits
Zone II - Shall extend a distance of 4 road miles inclusive beyond the outer perimeter of area I.
Zone III- Shall apply to all areas not within 1 or 2, or not within the specific areas.
Zone IV (SPECIFIC AREA) - Los Alamos, White Rock, South Mesa, McGregor Range, White Sands Missile Range, and/or Proving Grounds

COMMERCIAL LINE WORK

Bernalillo, Colfax, Catron, Chaves, Curry, DeBaca, Grant, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, Valencia and White Sands Missile Range and that portion of Fort Bliss in New Mexico

ZONE I
Cities and Towns Basing Points - Miles from Main Post Offices

Albuquerque - 15 miles
Santa Fe - 10 miles
Las Vegas - 8 miles
Farmington - 6 miles
Raton - 6 miles
Tucumcari - 6 miles
Aztec - 6 miles
Roswell - 12 miles
Ruidoso - 12 miles
Portales - 12 miles
Carrisoso - 12 miles
Clovis - 12 miles
Gallup - 12 miles
*Pojoaque - 2 miles

COMMERCIAL LINE WORK CONTD:

*All areas adjacent to Pojoaque that are over two miles distant from the main post office in that town will be zoned out of Santa Fe.

ZONE II - Extending up to 20 miles beyond zone 1

ZONE III - Extending up to 30 miles beyond zone 1

ZONE IV - Anything beyond 30 miles from zone 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
COMMERCIAL LINE WORK					
ZONE I					
Linemen - technicians	$12.55	.60	3%+.70		½%
Cable splicers	13.81	.60	3%+.70		½%
Equipment Operator (includes helicopter op.)	11.92	.60	3%+.70		½%
Equipment mechanic (includes Helicopter mechanic)	10.92	.60	3%+.70		½%
Powderman	10.92	.60	3%+.70		½%
Groundman & Jackhammer Oprs.	8.91	.60	3%+.70		½%
ZONE II					
Linemen - technicians	13.43	.60	3%+.70		½%
Cable splicers	14.69	.60	3%+.70		½%
Equipment Opr. (includes helicopter op.)	12.80	.60	3%+.70		½%
Equipment Mechanic(includes Helicopter mechanic)	11.80	.60	3%+.70		½%
Powderman	11.80	.60	3%+.70		½%
Groundman & Jackhammer Oprs.	9.79	.60	3%+.70		½%
ZONE III					
Linemen - technicians	14.18	.60	3%+.70		½%
Cable splicers	15.44	.60	3%+.70		½%
Equipment Opr. (includes helicopter op.)	13.55	.60	3%+.70		½%
Equipment Mechanic (includes helicopter mechanic)	12.55	.60	3%+.70		½%
Powderman	12.55	.60	3%+.70		½%
Groundman & Jackhammer Oprs.	10.54	.60	3%+.70		½%
ZONE IV					
Linemen - technicians	15.06	.60	3%+.70		½%
Cable splicers	16.32	.60	3%+.70		½%
Equipment Opr. (includes helicopter op.)	14.43	.60	3%+.70		½%
Equipment Mechanic(includes helicopter mechanic)	13.43	.60	3%+.70		½%
Powderman	13.43	.60	3%+.70		½%
Groundman & Jackhammer Oprs.	11.42	.60	3%+.70		½%

Las Alamos County - Use ZONE III rates.

COMMERCIAL LINE WORK
Applies to switching stations and substations adjacent to power plants in Zone 1 and zone 2 in Luna, Dona Ana, Otero and Hidalgo Counties, exclusive of White Sands Missile Range and that portion of Fort Bliss in New Mexico.

ZONE I
The area within 25 miles radius from the downtown Post Office of El Paso, Texas. Fort Bliss and Biggs Field; the area within a five mile radius of any city, town or municipality within which an employer establishes or maintains his place of business; the area within ten mile radius from the post office in Las Cruces, New Mexico, and within a five mile radius from the post office in Alamogordo, New Mexico.

ZONE II
All other areas of the jurisdiction except those specified in zone 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE I					
Linemen - technicians	$10.15	.60	3%		½%
Cable splicers	10.40	.60	3%		½%
Equipment opr.. (includes helicopter opr.)	9.64	.60	3%		½%
Equipment mechanic(includes helicopter mechanic)	8.93	.60	3%		½%
Powderman	8.93	.60	3%		½%
Groundman & Jackhammer Oprs.	7.21	.60	3%		½%
ZONE II					
Linemen - technicians	11.60	.60	3%		½%
Cable splicers	11.85	.60	3%		½%
Equipment Opr. (includes helicopter opr.)	11.02	.60	3%		½%
Equipment Mechanic(includes helicopter mechanic)	10.21	.60	3%		½%
Powderman	10.21	.60	3%		½%
Groundman & Jackhammer Oprs.	8.24	.60	3%		½%

COMMERCIAL LINE WORK
Applies to switching stations adjacent to power plants in Eddy and Lea Counties; the following zones listed shall be designated from main Post Office of Artesia, Carlsbad, Hobbs & Lovington.
Zone A - 0 - 12 miles
Zone B - 12 - 22 miles
Zone C - 22 to 40 miles
Zone D - 40 miles and beyond

COMMERCIAL LINE WORK CONTD:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE A					
Linemen - technician	$12.20	.60	3%		½%
Cable splicers	12.55	.60	3%		½%
Equipment Opr. (includes helicopter opr.)	11.59	.60	3%		½%
Equipment mechanic (includes helicopter mechanic)	10.74	.60	3%		½%
Powderman	10.74	.60	3%		½%
Groundman & Jackhammer Oprs	8.66	.60	3%		½%
ZONE B					
Linemen - technician	12.55	.60	3%		½%
Cable splicers	12.90	.60	3%		½%
Equipment opr. (includes helicopter opr)	11.94	.60	3%		½%
Equipment mechanic(includes helicopter mechanic)	11.09	.60	3%		½%
Powderman	11.09	.60	3%		½%
Groundman & Jackhammer Oprs.	9.01	.60	3%		½%
ZONE C					
Linemen - technician	12.70	.60	3%		½%
Cable splicers	13.05	.60	3%		½%
Equipment opr. (includes helicopter opr)	12.09	.60	3%		½%
Equipment mechanic(includes helicopter mechanic)	11.24	.60	3%		½%
Powderman	11.24	.60	3%		½%
Groundman & Jackhammer Oprs.	9.16	.60	3%		½%
ZONE D					
Linemen - technician	12.95	.60	3%		½%
Cable splicers	13.30	.60	3%		½%
Equipment opr. (includes helicopter opr)	12.34	.60	3%		½%
Equipment mechanic(includes helicopter mechanic)	11.49	.60	3%		½%
Powderman	11.49	.60	3%		½%
Groundman & Jackhammer Oprs.	9.41	.60	3%		½%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE, TILE & TERRAZZO WORKERS	$10.55	.77			
MARBLE, TILE & TERRAZZO FINISHERS	8.74	.77			
MILLWRIGHTS & PILEDRIVERMEN:					
Zone 1	12.50	1.10	1.30		.20
Zone 2	14.00	1.10	1.30		.20
Zone 3	14.75	1.10	1.30		.20

MILLWRIGHTS & PILEDRIVERMEN ZONE DEFINITIONS

BASING POINT - FROM ALBUQUERQUE CITY LIMITS:
Zone 1 - 0 to 15 road miles from basing point
Zone 2 - 15 to 35 road miles from basing point
Zone 3 - Over 35 road miles from basing point

PAINTRES: ZONE I					
Class-A	9.47	.70	.40		.05
Class-B	9.97	.70	.40		.05
Class-C	9.72	.70	.40		.05
Class-D	10.05	.70	.40		.05
Class-E	9.80	.70	.40		.05
PAINTERS: ZONE II					
Class-A	8.60	.70	.40		.05
Class-B	8.82	.70	.40		.05
Class-C	9.25	.70	.40		.05
Class-D	8.70	.70	.40		.05
Class-E	9.35	.70	.40		.05
Class-F	8.60	.70	.40		.05
Class-G	9.10	.70	.40		.05
PAINTERS: (ZONE III)					
Class A	8.23	.68			.02
Class B	8.65	.68			.02
Class C	8.375	.68			.02
Class D	9.08	.68			.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (cont"d)					
PAINTERS (ZONE IV)					
Residential Construction in Santa Fe, Taos and Rio Arriba Counties:					
Brush & roller	$8.60	.70	.40		.05
Spray and sandblast	9.25	.70	.40		.05
Paperhangers	8.82	.70	.40		.05
Vinyl hangers	8.70	.70	.40		.05

PAINTERS' ZONE AND CLASSIFICATION DEFINITIONS

ZONE I - San Juan, McKinley, Bernalillo, Torrance, Guadalupe, Quay, Catron, Socorro, Lincoln, DeBaca, Roosevelt, Chaves, Valencia, Sierra, Grant, Hidalgo, Curry, Lea, Eddy and Sandoval Counties, New Mexico.
- Class A - Painters, roller and hand textures
- Class B - Painters, spray, sandblasting, painter on steel bridges, tanks towers, pipe and structural
- Class C - Paperhanger
- Class D - Drywall finisher; ames tool operator
- Class E - Hand finisher machine texture

ZONE II - Colfax, Hardin, Los Alamos, Mora, San Miguel Rio Arriba, Taos, Union and Santa Fe Counties
- Class A - Painters and roller
- Class B - Paperhangers
- Class C - Spray, sandblast, steel, special coating applicator
- Class D - Vinyl hangers
- Class E - Drywall finisher tool and machine texture
- Class F - Hand texture
- Class G - Hand finisher

ZONE III - Luna, Otero and Dona Ana Counties
- Class A - Brush, paperhangers
- Class B - Spray, sandblasting, swing stage, stripping machine
- Class C - Ames tool and steel brush after erection
- Class D - Radio towers, water tanks smoke stake 70 - 100 ft.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS	$11.31	.77	.70		.06
PLUMBERS-PIPEFITTERS:					
Area I	13.55	.73	1.57		.19
Area II	14.05	.73	1.57		.19
Area III	15.30	.73	1.57		.19
Specific Area	14.18	.73	1.57		.19
Residential	8.05	.68	.25		.16

PLUMBERS - PIPEFITTERS' ZONES DEFINITIONS

BASING POINT CITIES OR TOWNS:
Albuquerque, Alamogordo, Anthony, Artesia, Belen, Carlsbad, Clovis, Deming, Espanola, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Silver City, Santa Rosa, Taos, Tucumcari, Truth of Consequence and Socorro, New Mexico

Area I - Shall include a distance of seven road miles inclusive beyond the city or town limits.

Area II - Shall extend a distance of four road miles inclusive beyond the outer perimeter of area I.

Area III - Shall apply to all areas not within areas 1 or 2, or not within the specific area.

Specific Area - Los Alamos, White Rock, South Mesa, McGregor Range, White Sands Missile Range and/or Proving Grounds, Atlas Missile Complex Sites in Chaves and Lincoln Counties, and the Oro Grande Range Camp and Dona Ana and Otero Counties

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
RESIDENTIAL AND GENERAL BUILDING CONSTRUCTION					
Group 1	$ 9.28	.70	.60		.15
Group 2	10.32	.70	.60		.15
Group 3	10.40	.70	.60		.15
Group 4	10.46	.70	.60		.15
Group 5	10.52	.70	.60		.15
Group 6	10.62	.70	.60		.15
Group 7	10.72	.70	.60		.15
Group 8	11.80	.70	.60		.15

HEAVY CONSTRUCTION (POWER EQUIPMENT OPERATORS AREA DEFINITIONS)
AREA I - Statewide, except San Juan County
AREA II - Farmington, San Juan County
Zone I - 0-15 miles from Farmington City Hall
Zone II - 15 to 35 miles from Farmington City Hall
Zone III - Over 35 miles from Farmington City Hall

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY CONSTRUCTION (AREA I):					
POWER EQUIPMENT OPERATORS:					
Group I	$ 9.23	.75	.60		.15
Group II	10.27	.75	.60		.15
Group III	10.35	.75	.60		.15
Group IV	10.41	.75	.60		.15
Group V	10.47	.75	.60		.15
Group VI	10.57	.75	.60		.15
Group VII	10.67	.75	.60		.15
Group VIII	11.67	.75	.60		.15
HEAVY CONSTRUCTION (AREA II)					
POWER EQUIPMENT OPERATORS:					
GROUP I					
Zone 1	9.23	.75	.60		.15
Zone 2	10.73	.75	.60		.15
Zone 3	11.23	.75	.60		.15
GROUP II					
Zone 1	10.27	.75	.60		.15
Zone 2	11.77	.75	.60		.15
Zone 3	12.27	.75	.60		.15
GROUP III					
Zone 1	10.35	.75	.60		.15
Zone 2	11.85	.75	.60		.15
Zone 3	12.35	.75	.60		.15
GROUP IV					
Zone 1	10.41	.75	.60		.15
Zone 2	11.91	.75	.60		.15
Zone 3	12.41	.75	.60		.15
GROUP V					
Zone 1	10.47	.75	.60		.15
Zone 2	11.97	.75	.60		.15
Zone 3	12.41	.75	.60		.15
GROUP VI					
Zone 1	10.57	.75	.60		.15
Zone 2	12.07	.75	.60		.15
Zone 3	12.57	.75	.60		.15
GROUP VII					
Zone 1	10.67	.75	.60		.15
Zone 2	12.17	.75	.60		.15
Zone 3	12.67	.75	.60		.15
GROUP VIII					
Zone 1	11.75	.75	.60		.15
Zone 2	13.25	.75	.60		.15
Zone 3	13.75	.75	.60		.15

POWER EQUIPMENT OPERATORS AREA DEFINITIONS

AREA I - Farmington, San Juan County
Zone I - 0 - 15 miles from Farmington City Hall
Zone II - 15-35 miles from Farmington City Hall
Zone III - 35-50 miles from Farmington City Hall
AREA II - Statewide, except San Juan County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA I (SITE PREPARATION & DIRT WORK)					
ZONE I					
Group 1	8.88	.75	.60		.15
Group 2	9.92	.75	.60		.15
Group 3	10.00	.75	.60		.15
Group 4	10.06	.75	.60		.15
Group 5	10.12	.75	.60		.15
Group 6	10.22	.75	.60		.15
Group 7	10.32	.75	.60		.15
Group 8	11.40	.75	.60		.15
ZONE II					
Group 1	$10.63	.75	.60		.15
Group 2	11.67	.75	.60		.15
Group 3	11.75	.75	.60		.15
Group 4	11.81	.75	.60		.15
Group 5	11.87	.75	.60		.15
Group 6	11.97	.75	.60		.15
Group 7	12.07	.75	.60		.15
Group 8	13.15	.75	.60		.15
ZONE III					
Group 1	11.13	.75	.60		.15
Group 2	12.17	.75	.60		.15
Group 3	12.25	.75	.60		.15
Group 4	12.31	.75	.60		.15
Group 5	12.37	.75	.60		.15
Group 6	12.47	.75	.60		.15
Group 7	12.57	.75	.60		.15
Group 8	13.65	.75	.60		.15
AREA II (SITE PREPARATION & DIRT WORK)					
Group 1	8.88	.75	.60		.15
Group 2	9.92	.75	.60		.15
Group 3	10.00	.75	.60		.15
Group 4	10.06	.75	.60		.15
Group 5	10.12	.75	.60		.15
Group 6	10.22	.75	.60		.15
Group 7	10.32	.75	.60		.15
Group 8	11.40	.75	.60		.15

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
BUILDING, RESIDENTIAL, HEAVY CONSTRUCTION & SITE PREPARATION & DIRT WORK

GROUP I - Fireman, oiler, screedman, scale operator such as bin-a batch, rubber tired farm type tractor, tractors under 50 HP without attachments, breakman, concrete paving curing machine (bridge-type), helper; (mechanic, welder, grease truck)

GROUP II - Rollers, sheepsfoot or pneumatic self propelled w/o dozer, concrete conveyor, service truck operator (head oiler), air compressor (300 CFM & over), pumps (6" and over), screening plants, concrete mixers (under 1 CY), concrete saw or grinder-span type, 1 drum hoist, air tugger, elevating belt type loaders, forklift, lumber stacker, tractor farm type (under 50 HP with attachments) motorman and industrial locomotive operator, winch truck, front end loaders, (under 2 CY), power plants which generate over 15 KW, welding machines

GROUP III - Bituminous distributors, boilers, retort and hot oil heaters, concrete mixers (1 CY and over), concrete paver-single drum, drilling equipment, motor grades (rough), shaft and tunnel equipment; (refrigeration, slusher, jumbo forms), trenching machines (all types), pump crete and gunite machines, slipform paver, mechanical bullfloats, concrete slab spreading machine, concrete slab finishing machine, asphalt plants, bituminous finishing machines, crushing plants

GROUP IV - Front end loaders (2 thru 10 CY), rollers steel wheeled-all types, bulldozers, scrapers (motor or towed), elevating graders, concrete batching plants, self-propelled rollers -- equipped with dozer, twin-bowl scrapers and quad 8 or 9 pushers (35¢ over basic rate, three bowl scraper (60¢ over basic rate)

GROUP V - Hydraulic cranes-with less than 50 feet of boom (20 tons and under), concrete paver-double drum, cat cranes, hysters, side and swingboom cats, 2 drum hoists, auto fine grader

GROUP VI - Mucking machines - all types, motor grader (finish) mechanic - welder

GROUP VII - Steam engineers, loader (front end over 10 CY), concrete pump (snorkel type)

GROUP VIII - All shovel type equipment: cranes, draglines, backhoes, derricks, guy & stiff leg, pipemobile (No. 2 operator), piledriver, hydraulic cranes (20 tons & over), mine hoist, belt loader ("C.M.I." Type), booms & jibs 150 ft. through 199 ft. - 25¢ per hour above base pay. 200 ft.and over - 50¢ per hour above base pay. Shovel (wheel type), boring machine (tunnel or shaft mole), pipe mobile

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS (Building Const.)	$9.50	.50			
ROOFERS (RESIDENTIAL CONST.)	8.30	.50			
SHEET METAL WORKERS:					
Zone 1	12.77	.53	1.31		.19
Zone 2	15.02	.53	1.31		.19
Zone 3	13.77	.53	1.31		.19
Zone 4	15.62	.53	1.31		.19
Zone 5	10.72	3%+.51	.485		.06

SHEET METAL WORKERS ZONE DEFINITIONS

ZONE I
Bernalillo, Catron, Chaves, Colfax, Curry, DeBaca, Guadalupe, Harding Lincoln, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Miguel, Santa Fe, Socorro, Taos, Torrance, Union and Valencia Counties, New Mexico

ZONE II
Any area except that described as zone I: Kirtland Air Force Base, East and West; Rio Rancho; Paradise Hills; and area including 10 miles each direction east and west of Interstate Highway 25 and extending north and south, terminating with but including Bernalillo and Belen; all area identified by corner reference points beginning at and including Pojoaque, to Chimayo, to Velarde to Abiquiu and back to Pojoaque

ZONE III
Los Alamos County

ZONE IV
San Juan County

ZONE V
Dona Ana, Eddy Grant, Hidalgo, Lea, Luna, Sierra and Otera Counties, including Holloman Air Force Base, White Sands and McGregor Ranges.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	$13.84	.85	1.20		.08
SOFT FLOOR LAYERS:					
Zone 1	8.50	.38	.10		.02
Zone 2	9.20	.70	.50		.04

SOFT FLOOR LAYERS" ZONE DEFINITIONS

ZONE 1 - Dona Ana, Luna and Otero Counties, New Mexico
ZONE 2 - Statewide (excluding Dona Ana, Luna and Otero Counties

SOUND INSTALLERS:					
SOUNDMAN					
Zone 1	$10.35	.60	3%		1/2%
Zone 2	11.64	.60	3%		1/2%
Zone 3	14.23	.60	3%		1/2%
TECHNICIANS					
Zone 1	8.28	.60	3%		1/2%
Zone 2	9.57	.60	3%		1/2%
Zone 3	12.16	.60	3%		1/2%
SOUND INSTALLERS:					
Zone 1	6.73	.60	3%		1/2%
Zone 2	8.02	.60	3%		1/2%
Zone 3	10.61	.60	3%		1/2%

SOUND INSTALLERS ZONE DEFINITIONS

ZONE I - Thirty mile radius of main post office in Albuquerque
ZONE II - Remainder of Valencia, Sandoval, Santa Fe, Torrance, and Socorro Counties, the hourly rates of pay shall be increased to twelve and one-half (12½) percent of journeyman rate of pay for Zone I.
ZONE III - Chaves, Curry, Roosevelt, Lincoln, Guadalupe, DeBaca, Quay, San Miguel, Mora, Harding, Union, Colfax, Taos, Rio Arriba, Catron, Sierra, Grant, Los Alamos, San Juan, McKinley Counties, the hourly rates of pay shall be increased by thirty-seven and one-half (37.5) percent of the journeyman rate of pay for Zone I.

TRUCK DRIVERS ZONE PAY BASING POINTS AND DEFINITIONS LISTED BELOW FOR BUILDING AND HEAVY CONSTRUCTION.

BASING POINTS ARE AS FOLLOWS:
Alamogordo, Albuquerque, Artesia, Bayard, Belen, Carlsbad, Clovis, Deming, Espanola, Eunice, Farmington, Gallup, Grants, Hobbs, La Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Santa Rosa, Silver City, Socorro, Taos, Tucumcari

ZONE I - Shall be jobs or projects within 15 road miles from the starting points listed above.

ZONE II - Shall be jobs or projects which are more than fifteen road miles, but less than thirty-five road miles from base points, also, includes all of Los Alamos County.

ZONE III - Shall be those jobs or projects which are thirty-five road miles or more from the base points.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUILDING CONSTRUCTION:					
TRUCK DRIVERS (ZONE I)					
Group 1	$ 8.26	.77	.77		
Group 2	8.38	.77	.77		
Group 3	8.46	.77	.77		
Group 4	8.58	.77	.77		
Group 5	8.63	.77	.77		
Group 6	8.73	.77	.77		
Group 7	8.83	.77	.77		
Group 8	8.97	.77	.77		
Group 9	9.12	.77	.77		
TRUCK DRIVERS (ZONE II)					
Group 1	9.51	.77	.77		
Group 2	9.63	.77	.77		
Group 3	9.71	.77	.77		
Group 4	9.83	.77	.77		
Group 5	9.88	.77	.77		
Group 6	9.98	.77	.77		
Group 7	10.08	.77	.77		
Group 8	10.22	.77	.77		
Group 9	10.37	.77	.77		
TRUCK DRIVERS (ZONE III)					
Group 1	10.01	.77	.77		
Group 2	10.13	.77	.77		
Group 3	10.21	.77	.77		
Group 4	10.33	.77	.77		
Group 5	10.38	.77	.77		
Group 6	10.48	.77	.77		
Group 7	10.58	.77	.77		
Group 8	10.72	.77	.77		
Group 9	10.87	.77	.77		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
RESIDENTIAL CONSTRUCTION:					
TRUCK DRIVERS					
Group 1	$ 7.46	.77	.77		
Group 2	7.58	.77	.77		
Group 3	7.66	.77	.77		
Group 4	7.78	.77	.77		
Group 5	7.83	.77	.77		
Group 6	7.93	.77	.77		
Group 7	8.03	.77	.77		
Group 8	8.17	.77	.77		
Group 9	8.32	.77	.77		
HEAVY CONSTRUCTION:					
TRUCK DRIVERS (ZONE I)					
Group 1	8.41	.77	.77		
Group 2	8.53	.77	.77		
Group 3	8.61	.77	.77		
Group 4	8.73	.77	.77		
Group 5	8.78	.77	.77		
Group 6	8.88	.77	.77		
Group 7	8.98	.77	.77		
Group 8	9.12	.77	.77		
Group 9	9.24	.77	.77		
TRUCK DRIVERS (ZONE II)					
Group 1	9.66	.77	.77		
Group 2	9.78	.77	.77		
Group 3	9.86	.77	.77		
Group 4	9.98	.77	.77		
Group 5	10.03	.77	.77		
Group 6	10.13	.77	.77		
Group 7	10.23	.77	.77		
Group 8	10.37	.77	.77		
Group 9	10.52	.77	.77		
TRUCK DRIVERS (ZONE III)					
Group 1	9.91	.77	.77		
Group 2	10.03	.77	.77		
Group 3	10.11	.77	.77		
Group 4	10.23	.77	.77		
Group 5	10.28	.77	.77		
Group 6	10.33	.77	.77		
Group 7	10.48	.77	.77		
Group 8	10.67	.77	.77		
Group 9	10.77	.77	.77		

TRUCK DRIVERS CLASSIFICATION DEFINITIONS (BUILDING, RESIDENTIAL CONSTRUCTION)

GROUP I - Pickup 3/4 ton and under, lubrication, light tire repair and washer, swamper, 2 or 4 and up.

GROUP II - Dump or batch truck under 8 C.Y.W.L.C.: flat bed (bobtail) 2 ton and under; warehouseman including material checker, fork lift under 5 tons MRC.

GROUP III - Dump trucks (including all highway and off highway) 8 up to 16 C.Y.W.L.C.; water, fuel or oil trucks less than 3,000 gal., flat bed (bobtail) over 2 tons

GROUP IV - Distributor driver; heavy tire repairman; lumber carrier driver; young buggy or similar equipment, transit mix or agitator 2 or 3 axle bobtail driver (flat-bed or van single axle); forklifts 5 ton and over MRC;

GROUP V - Dumpsters and dumpcrete driver; water, fuel or oil truck 3,000 to 6,000 gal; lowboys and light equipment driver; euclid type tank wagon under 6,000 gal.

GROUP VI - Vacuum truck; dump trucks (including all highway and off-highway 16 up to 22 C.Y.W.L.C.

GROUP VII - Transit mix or agitator semi or 4 axle equipment driver; flaherty truck type spreader box driver; slurry truck driver; bulk cement driver; semi-doubles; 4 axle bobtail; winch truck and "A" frame; dump truck (including all highway and off-highway) 22 CY up to 35 C.Y.W.L.C.

GROUP VIII - Euclid diesel power turnarocker; terra coba-DW20-LeTourneau Pulls and similar diesel powered equipment when used to haul materials and assigned to a teamster-lowboy heavy equipment driver; water, fuel or oil trucks 6,000 gal. and over including tank wagon drivers, semi-trailer driver (flat-bed or van tandems); light equipment mechanic; dump trucks (including all highway and off-highway) 35 C.Y.W.L.C. and over; truck and trailer or semi-trailer (flatbed); eject all

GROUP IX - Lowboy (heavy equipment double gooseneck); heavy equipment mechanic; welder (body and fender men)

TRUCK DRIVERS CLASSIFICATION DEFINITIONS (HEAVY CONSTRUCTION)

GROUP I - Pickup 3/4 ton and under, lubrication, light tire repair and washer, swamper, teamster 2 or 4 and up

GROUP II - Dump or batch truck, under 8 C.Y.W.L.C. flat bed (bobtail) 2 ton and under, warehouseman including material checker, cardex man, expeditor, forklift under 5 ton M.R.C.

GROUP III - Dump trucks (including all highway & off-highway) 8 up to 16 C.Y.W.L.C., water, fuel or oil trucks less than 3,000 gals., flatbed (bobtail) over 2 tons

GROUP IV - Distributor driver, heavy tire repair, lumber carrier driver, yound buggy or similar equipment, transit mix or agitator 2 or 3 axle bobtail equipment, scissor truck, bulk cement bobtail 2 or 3 axles, semi-trailer flatbed or van single axle, forklift 5 ton and over M.R.C.

GROUP V - Dumpster and dumpcrete driver, water, fuel or oil truck, 3,000 to 6,000 gals., capacity, lowboy, light equipment driver, euclid type tank wagon under 6,000 gallons

GROUP VI - Vacuum truck, dump trucks (including all highway & off-highway) 16 up to 22 C.Y.W.L.C.

GROUP VII - Transit mix or agitator semi or 4 axle equipment driver, flaherty truck type spreader box driver, slurry truck driver, bulk cement driver, semi-doubles, 4 axle bobtail, winch truck & "A" frame, dump trucks (including all highway and off-highway) 22 C.Y. up to 35 C.Y.W.L.C.

GROUP VIII - Euclid diesel powered turnarocker, terra cobra, DW 10, DW 20, LeTourneau pulls and similar diesel powered equipment when used to haul materials and assigned to a teamster, lowboy heavy equipment driver, water, fuel or oil truck 6,000 gallons and over (including tank wagon drivers), semi-trailer driver (flatbed or van tandems) light equipment mechanic, dump trucks (including all highway and off-highway) 35 C.Y.W.L.C. and over, truck and trailer or semi-trailer (flatbed), ejectall

GROUP IX - Lowboy (heavy equipment, double gooseneck), heavy equipment mechanic, welder (body and fender man)

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

FOOTNOTES:
a - Includes $.07 contribution to the Occupational Health Fund
b - 1st 6 months - none; 6 months to 5 years, 6%; over 5 years, 8% of basic hourly rate.
c - Holidays A through G

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(ii).

SUPERSEDEAS DECISION

STATE: Oklahoma COUNTY: Pittsburg
DECISION NO. OK80-4060 DATE: Date of Publication
SUPERSEDES DECISION NO. OK78-4062 dated June 16, 1978 in 43 FR 26265
DESCRIPTION OF WORK: BUILDING PROJECTS (excluding single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.60	.55	.85		.015
BOILERMAKERS	12.00	.975	1.00		.03
BRICKLAYERS-Stonemasons	11.75	.60	.40		.05
CARPENTERS:					
Carpenters	9.85	.55	.80		.05
Millwrights-Piledrivermen	11.20	.55	.80		.05
CEMENT MASONS	8.00				
ELECTRICIANS:					
Electricians	12.15	.59	3%+.58		.07
Cable splicers	12.40	.59	3%+.58		.07
GLAZIERS	10.49	.70	.30		.01
IRONWORKERS	12.10	.75	.85		.12
LABORERS:					
Group I	7.45	.25	.40		
Group II	7.75	.25	.40		
Group III	7.95	.25	.40		

LABORERS CLASSIFICATION DEFINITIONS

GROUP I
All digging and dirt work, firing of salamanders and smudge pots; loading and unloading of materials and equipment; loading and unloading of materials to and from hoist or cages for stock piling only; wheeling and placing of concrete; handling of lumber, steel, cement and distribution of materials; all cleaning, including cleaning of windows; wrecking and razing of building and all structures, cleaning and clearing of debris; loading and unloading of materials, hoist or cages, except when the man is directly tending lathers, mason or plasterers; water boys, when used, carpenter tenders, and common laborers.

GROUP II
All machine tool operators that come under the jurisdiction of the laborers; all sewer and drain tile layers & handling at the ditch, excluding distribution; operators of water pumps up to four inches and slip form jacks; men erecting scaffolds and directly tending lathers, masons, cement masons and plasterers, mortar mixers, hod carriers and dry mixers; high work over 30 ft. from the ground or floors; cement finisher tender; work on swinging scaffold; all kettle and pot men, tank cleaning, all pipe dope treating and wrapping, including all men working with dope; mortar and plaster mixing machine, pumpcrete machines, and gunnite mixing machines, including placing of concrete; handling creosoted or treated materials,

LABORERS CLASSIFICATION DEFINITIONS (CONT'D)

liquid acids, or like materials when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which replaces wheel barrows or buggies previously used by laborers; all scale men on batch plants; all laborers screening sand, running drier, and feeding operating sand blaster, except nozzle; signal men and cutting torch operators in connection with laborers' work; concrete grader

GROUP III

Wagon drill operator and powdermen or blaster

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION					
Linemen	$10.60		3%		1/2%
Cable splicers	11.29		3%		1/2%
Hole digger operator	9.62		3%		1/2%
Heavy equipment operator (or pole cat equivalent)	9.62		3%		1/2%
Line truck driver (winch op.)	8.71		3%		1/2%
Jackhammerman	7.93		3%		1/2%
Powderman	9.62		3%		1/2%
Truck driver (flat bed, ton and half and under)	7.55		3%		1/2%
PAINTERS:					
Brush and roller	10.55		.40	.20	.07
Highwork and stage	11.15		.40	.20	.07
Sandblasting and spray painting	11.40		.40	.20	.07
Hot or bituminous	11.40		.40	.20	.07
Sheet rock power tools	13.05		.40	.20	.07
PLUMBERS-PIPEFITTERS	12.15		.40	.20	.07
POWER EQUIPMENT OPERATORS:	13.90	.60	1.10		.20
GROUP I	13.20	.70	.50		.12
GROUP II	12.70	.70	.50		.12
GROUP III	12.20	.70	.50		.12
GROUP IV	11.95	.70	.50		.12
GROUP V	11.70	.70	.50		.12
GROUP VI	11.45	.70	.50		.12
GROUP VII	11.20	.70	.50		.12
GROUP VIII	10.20	.70	.50		.12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I

All crane type equipment with 300' of boom or over (including jib)

GROUP II

All crane type equipment with 200-300' of boom (including jib)

GROUP III

All crane type equipment with 100-200' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more

GROUP IV

Sideboom (booms 30' and over); Guy Derrick

GROUP V

Heavy duty mechanic; welder; crane-hook and overhead monorail; whirley; panel board batch plant operator; piledriver engineer; dragline; shovel; clamshell; backhoe (3/4 yd. & over); gradall; hydro crane; cherry picker; hoists while operating 2 or more drums; hoists while doing stack and chimney work (1 or 2 drums); power driven hole digger (with 30' and longer mast); motor patrol (blade)

GROUP VI

Fork lift (35' and over); dozer (engine h.p. 65 or over); Fordson tractor or like equipment with hoe or loader equipment or ditcher; scraper type equipment; loader operator of hi-lift (engine h.p. 65 or over); asphalt lay machine; tail boom; conveyor-multiple, panel board control; power driven hole digger with less than 30' mast; trenching machine; concrete pump - boom type

GROUP VII

Locomotive engineer; boring machine; tug boat; mixer, 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist - when operating one drum; welding machine, 3 to 6; air compressor, 3 to 5, 500 cu. ft. ft and under; air compressor, over 500 cu. ft. (1); pumps, battery, 3 to 6; fork-lift, bobcat and similar equipment; generator plant engineers, Diesel elec.; winch truck with A-Frame; roller; all types; outside elevator or building type of personnel hoist; concrete buster or tamper; heaters under jurisdiction of operating engineers; fireman; boiler operator; crushing plants; oiler distributor; pulvimixer; farmer tractor with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt bulk handling; screed operator; concrete pump; form grader; screening plant; well point pump operator; drilling machines when operated from console or machines

GROUP VIII

Permanent elevator - building type (automatic); concrete mixer, with hopper less than 18 cu. ft.; air compressor, 500 cu. ft. and under (1 or 2); welding machine (1 or 2); pump (1 or 2); greaser; tilt top trailer operator; fuelman; truck crane oiler driver or crane oiler; conveyor-single-continuous belt bulk handling; asphalt lay machine back end man

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	$10.90	.60	.50		.04
SHEET METAL WORKERS	12.06	.60	.66		.10
SOFT FLOOR LAYERS	7.71		.45	.74	.03
PAID HOLIDAYS: Six paid holidays - New Years Day, Memorial Day, July 4th, Labor Day; Thanksgiving Day and Christmas Day.					
SPRINKLER FITTERS	13.71	.85	1.20		.08
TERRAZZO WORKERS	12.74	.70	.50		
TILE SETTERS	12.74	.70	.50		
TILE & TERRAZZO FINISHERS	9.01	.70			
TRUCK DRIVERS:					
Group I	10.43				
Group II	10.53				
Group III	10.63				
Group IV	10.58				
Group V	10.73				

TRUCK DRIVERS CLASSIFICATION DEFNINTIONS

GROUP I
Pick-up, 1½ tons or 2½ yards and up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake bodies and buses
GROUP II
3 tons or 4 yards and up to but not including 4 tons or 6 yards
GROUP III
5 tons or 6 yards and over including heavy equipment such as pole trucks, euclids, Mississippi wagons, semi-dumps, tournapulls, or other heavy material moving equipment; tractor trailer drivers and similar equipment, such as tractors, ten wheelers
GROUP IV
Ready-mix concrete trucks up to but not including 3 yards
GROUP V
Ready-mix concrete trucks 3 yards and over

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

SUPERSEDEAS DECISION

STATE: Oklahoma COUNTY: Garfield
DECISION NO.: OK80-4063 DATE: Date of Publication
SUPERSEDES DECISION NO. OK79-4073 dated August 3, 1979 in 44 FR 45863
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including four stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	12.33	.55	1.00		.04
BOILERMAKERS	12.00	.975	1.00		.03
BRICKLAYERS-Stonemasons	11.95				
CARPENTERS:					
Carpenters	10.10	.55	.25		.05
Millwrights-Piledrivermen	11.45	.55	.80		.09
CEMENT MASONS	9.10				
ELECTRICIANS:					
ZONE I	11.35	.70	8%+.10		1%
ZONE II	11.60	.70	8%+.10		1%
ZONE III	11.85	.70	8%+.10		1%
CABLE SPLICERS:					
ZONE I	11.60	.70	8%+.10		1%
ZONE II	11.85	.70	8%+.10		1%
ZONE III	12.10	.70	8%+.10		1%

ELECTRICIANS-CABLE SPLICERS ZONE DEFINITIONS

ZONE I - The area within the twelve mile radius of the main Post Office located in the City of Enid.
ZONE II - the area between the twelve mile zone 1 radius to thirty mile radius of the zone 1 Post Office, except where zone 2 intercepts another zone 1 area.
ZONE III - the area outside zone 1 and 2 within the local union area.

ELEVATOR CONSTRUCTORS	11.455	.895	.69	a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.895	.69	a+b	.02
GLAZIERS	9.30				
IRONWORKERS	12.10	.75	.85		.12
LABORERS:					
GROUP I	7.15	.25	.40		
GROUP II	7.40	.25	.40		
GROUP III	8.00	.25	.40		

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - All digging and dirt work, firing of salamanders and smudge pots; loading and unloading of materials and equipment; loading and unloading of materials to and from hoist or cages for stock piling only; wheeling and placing of concrete; handling of lumber, steel, cement and distribution of materials all cleaning, including cleaning of windows; wrecking & razing of building and all structures, cleaning and clearing of debris; loading and unloading of materials, hoist or cages, except when the man is directly tenders; and common laborers.

GROUP II -All machine tool operators that come under the jurisdiction of the laborers; all sewer and drain tile layers and handling at the ditch, excluding distribution; operators of water pumps up to four inches and slip form jacks; men erecting scaffolds and directly tending lathers, masons, cement masons and plasterers, mortar mixers, hod carriers and dry mixers; highwork over 30 ft. from the ground or floors; cement finisher tenders;work on swinging scaffold; all kettle and pot men, tank cleaning, all pipe doping teating and wrapping, including all men working with dope; mortar and plaster mixing machine, pump-crete machine, and gunite mixing machines, including placing of concrete, handling creosoted or treated materials, liquid acids, or like materials when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which replaces wheel barrows or buggies previously used by laborers; all scale men on batch plants; all laborers screening sand, running sand drier, and feeding operaing and sand blaster, except nozzle; signal men cutting torch operators in connection with laborers' work; cocnrete grader

GROUP III - Wagon drill operator and powdermen or blaster

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen	10.60		3%		½%
Cable splicers	11.29		3%		½%
Hole digger operator	9.62		3%		½%
Heavy equipment operators (or pole cat equivalent)	9.62		3%		½%
Line truck driver (winch op.)	8.71		3%		½%
Jack hammerman	7.93		3%		½%
Powdermen	9.62		3%		½%
Groundman	7.07		3%		½%
Truck driver (flat bed,ton and hald and under)	7.55		3%		½%
MARBLE SETTERS	11.70		.70		
PAINTERS:					
GROUP I	9.45	.50	.35	.35	.03
GROUP II	9.95	.50	.35	.35	.03
GROUP III	10.45	.50	.35	.35	.03
GROUP IV	9.95	.50	.35	.35	.03
GROUP V --	9.95	.50	.35	.35	.03

PAINTERS CLASSIFICATION DEFINITIONS

GROUP I - Brush or roller, bedding and taping
GROUP II - Spray and sandblasting under 30 feet
GROUP III- Spray and sandblasting over 30 feet
GROUP IV - Tapers using machine tools

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS-PIPEFITTERS	$13.57	.85	.85		.12
POWER EQUIPMENT OPERATORS:					
GROUP I	13.20	.70	.75		.12
GROUP II	12.70	.70	.75		.12
GROUP III	12.20	.70	.75		.12
GROUP IV	11.95	.70	.75		.12
GROUP V	11.70	.70	.75		.12
GROUP VI	11.45	.70	.75		.12
GROUP VII	11.20	.70	.75		.12
GROUP VIII	10.20	.70	.75		.12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
All crane type equipment with 300' of boom or over (including jib)

GROUP II
All crane type equipment with 200-300' of boom (including jib)

GROUP III
All crane type equipment with 100-200' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more

GROUP IV
Sideboom (booms 30' and over); Guy Derrick

GROUP V
Heavy duty mechanic; welder; crane-hook and overhead monorail; whirley; panel board batch plant operator; piledriver engineer; dragline; shovel; clamshell; backhoe (3/4 yd. & over); gradall; hydro crane; cherry picker; hoists while operating 2 or more drums; hoists while doing stack and chimney work (1 or 2 drums); power driven hole digger (with 30' and longer mast); motor patrol (blade)

GROUP VI
Motor patrol(blade), fork lift (35' & over), dozer (engine h.p. 65 or over), fordson tractor or like equipment with hoe or loader equipment or ditcher, scraper type equipment, tournapull, DW 10, 15, 16, 20, 21 and similar rubber tired equipment, euclid, TS-24 and similar, loader operator or hi-lift (engine h.p. 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, power driven hole digger with less than 30' mast, trenching machine, concrete pump-boom type

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VII
Locomotive engineer; boring machine; tug boat; mixer, 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist-when operating one drum; welding machine, 3 to 6; air compressor, 3 to 5, 500 cu. ft. and under; air compressor, over 500 cu. ft. (1); pumps, battery, 3 to 6; fork-lift, bobcat and similar equipment; generator plant engineers, Diesel electric; winch truck with A-Frame; roller, all types; outside elevator or building type of personnel hoist; concrete buster/or tamper; heaters under jurisdiction of operating engineers; fireman; boiler operator; crushing plants; oiler distributor; pulvimixer; farmer tractor-with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt bulk handling; screed operator; concrete pump; form grader; screening plant; well point pump operator; signal man on large whirleys when and if required; operator for rotary drilling machines when operated from console or machines

GROUP VIII
Permanent elevator - building type (automatic), concrete mixer, with hopper less than 18 cu. ft.; air compressor, 500 cu. ft. and under (1 or 2); welding machine (1 or 2); pump (1 or 2); greaser; tilt top trailer operator; fuelman; truck crane oiler driver or crane oiler; conveyor operator-single-continuous belt bulk handling; asphalt lay machine back end man

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	$10.90	.60	.50		.04
SHEET METAL WORKERS	12.31	.67	1.23		.07
SOFT FLOOR LAYERS (RESILIENT FLOOR LAYERS & CARPET LAYER	11.10	.60		.65	.03
SPRINKLER FITTERS	13.71	.85	1.20		.08
TERRAZZO WORKERS	11.70		.70		
TERRAZZO WORKERS FINISHERS	7.33				
TERRAZZO WORKERS FLOOR MACHINE OPERATOR	7.43				
TERRAZZO WORKERS BASE MACHINE OPERATOR	7.68				
TILE LAYERS	11.70		.70		
TILE & MARBLE FINISHERS	7.00				
TRUCK DRIVERS:					
GROUP I	9.70				
GROUP II	9.70				
GROUP III	9.40				

TRUCK DRIVERS CLASSIFICATION DEFINITIONS

GROUPS I
Truck drivers for heavy equipment such as lowboys, heavy winch and floats

GROUP II
Heavy earth moving equipment such as dump trucks and euclids

GROUP III
Truck drivers and swampers, such as dump trucks, flat beds, stake bodies and 3/4 and 1/2 ton pick-up trucks

PAID HOLIDAYS:
A-New years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksfiving; G-Christmas Day

FOOTNOTES:
a - 1st 6 mos. to 5 yrs. 6%; over 5 yrs. 8% of basic hourly rate plus 2½% of hourly rate.
b - Paid Holidays, A through G

WELDERS -- receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(ii)).

SUPERSEDEAS DECISION

STATE: Oklahoma

COUNTIES: Oklahoma, Cleveland, Caddo, Canadian, Kingfisher, Lincoln, Logan, McClain, Grady, Seminole and Pottawatomie

DECISION NO OK80-4064

DATE: Date of Publication

SUPERSEDEAS DECISION #OK79-4074 dated August 3, 1979 in 44 FR 45864

DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including four stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
ASBESTOS WORKERS	$12 33	55	1 00		04
BOILERMAKERS	12 00	975	1 00		.03
BRICKLAYERS-STONEMASONS:					
Oklahoma, Cleveland, Canadian, Logan and McClain Cos.	12.90	62	75		05
Linclon; Pottawatomie and Seminole Counties	11 70	62	75		10
Kingfisher County	11 95				
Caddo and Grady Counties	10 90	62	75		10
CARPENTERS - ZONE I					
Carpenters	10 05	55	50		05
Power saw operator	10 30	55	50		05
Millwrights-Piledrivermen	11 45	55	80		09
CARPENTERS - ZONE II					
Carpenters	11 20	55	80		09
Millwrights-Piledrivermen	11 45	55	80		09
Power saw operator	11 45	.55	.80		09
CARPENTERS - ZONE III					
Carpenters	12 35				
Power saw operator	12 60				
Millwrights-Piledrivermen	12 60				
CARPENTERS - ZONE IV					
Carpenters	9 75	55	50		
Millwrights-Piledrivermen	10 575	55	.50		
CARPENTERS - ZONE V					
Carpenters	7.25				
Millwrights-Piledrivermen	11 45	55	80		09

CARPENTERS AREA DEFINITIONS

ZONE I
Northern 1/2 or Lincoln County bound on the South by Interstate 35 on the East of Highway 99

ZONE II
Pottawatomie County and part of Lincoln County south of Turner Turnpike; all of Oklahoma, Canadian, Kingfisher and Logan Counties

ZONE III
McClain and Cleveland Counties

ZONE IV
Seminole County

ZONE V
Caddo and Grady Counties

DECISION #OK80-4064

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CEMENT MASONS:					
Lincoln, Oklahoma, McClain, Caddo, Grady, Cleveland, Canadian, Logan and Kingfisher Counties	$11 43	60			
ELECTRICIANS:					
Zone I	11 35	70	8%+ 10		1%
Zone II	11 60	70	8%+ 10		1%
Zone III	11 85	70	8%+ 10		1%
CABLE SPLICERS:					
Zone I	11 60	70	8%+ 10		1%
Zone II	11 85	70	8%+ 10		1%
Zone III	12 10	70	8%+ 10		1%

ELECTRICIANS-CABLE SPLICERS ZONE DEFINITIONS

ZONE I
The area within the twelve mile radius of the main Post Office located in one of the cities listed as follows: El Reno, Moore, Norman, and Oklahoma City

ZONE II
The area between the twelve mile zone 1 radius to thirty mile radius of the zone 1 post office, except where 2 intercepts another zone 1 area

ZONE III
The area outside zones 1 and 2 within the local union area

ELEVATOR CONSTRUCTORS	11 455	895	69	a+b	035
ELEVATOR CONSTRUCTORS HELPER	70%JR	895	69	a+b	035
GLAZIERS	9 30				
IRONWORKERS	12 10	75	95		.12
LABORERS:					
ZONE I					
Group I	8 85	25	40		
Group II	9.10	25	40		
ZONE II					
Group I	7 30	25	40		
Group II	7 55	25	40		
ZONE III					
Group I	7 45	25	40		
Group II	7 75	25	40		
ZONE IV					
Group I	7 15	25	40		
Group II	7 40	25	40		

LABORERS CLASSIFICATION DEFINITION

GROUP I - Unskilled laborers
GROUP II - Air tool operator (jackhammer-vibrator), mason tenders, mortar mixers, pipelayers (concrete and clay)

AREA COVERED BY LABORERS ZONES

ZONE I
Oklahoma, Canadian, Logan, Pottawatomie, Lincoln and Cleveland Counties
ZONE II - McClain, Caddo and Grady Counties
ZONE III - Seminole County
ZONE IV - Kingfisher County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$11.20				.01
LINE CONSTRUCTION:					
Linemen	10.60		3%		1/2%
Cable splicers	11.29		3%		1/2%
Hole digger operator	9.62		3%		1/2%
Heavy equipment operator (or pole cat equivalent)	9.62		3%		1/2%
Line truck driver (winch op	8.71		3%		1/2%
Jack hammerman	7.93		3%		1/2%
Powderman	9.62		3%		1/2%
Groundman	7.07		3%		1/2%
Truck driver (flat bed, ton and half and under)	7.55		3%		1/2%
MARBLE MASONS	11.70		.70		
PAINTERS:					
Brush	9.45	.50	.35	.35	.03
Spray under 30 feet	9.95	.50	.35	.35	.03
Spray over 30 feet	10.45	.50	.35	.35	.03
Sandblasting under 30 feet	9.95	.50	.35	.35	.03
Sandblasting over 30 feet	10.45	.50	.35	.35	.03
Paperhanging	10.45	.50	.35	.35	.03
Tapers using machine tools	9.95	.50	.35	.35	.03
PLASTERERS	12.70				.01
PLUMBERS-PIPEFITTERS	13.57	.85	.85		.12
POWER EQUIPMENT OPERATORS:					
Group I	13.20	.70	.75		.12
Group II	12.70	.70	.75		.12
Group III	12.20	.70	.75		.12
Group IV	11.95	.70	.75		.12
Group V	11.70	.70	.75		.12
Group VI	11.45	.70	.75		.12
Group VII	11.20	.70	.75		.12
Group VIII	10.20	.70	.75		.12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
All crane type equipment with 300' of boom or over (including jib)
GROUP II
All crane type equipment with 200-300' of boom (including jib)
GROUP III
All crane type equipment with 100-200' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more
GROUP IV
Sideboom (booms 30' and over); Guy Derrick
GROUP V
Heavy duty mechanic; welder; crane-hook and overhead monorail; whirley; panel board batch plant operator; piledriver engineer; dragline; shovel; clamshell; backhoe (3/4 yd. & over); gradall; hydro crane; cherry picker; hoists while operating 2 or more drums; hoists while doing stack and chimney work (1 or 2 drums); power driven hole digger (with 30' and longer mast); motor patrol (blade)
GROUP VI
Fork lift (35' and over); dozer (engine h.p. 65 or over); Fordson tractor or like equipment with hoe or loader equipment or ditcher; scraper type equipment; loader operator of hi-lift (engine h.p. 65 or over); asphalt lay machine; tail boom; conveyor-multiple, panel board control; power driven hole digger with less than 30' mast; trenching machine; concrete pump - boom type
GROUP VII
Locomotive engineer; boring machine; tug boat; mixer, 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist - when operating one drum; welding machine, 3 to 6; air compressor, 3 to 5, 500 cu. ft. ft and under; air compressor, over 500 cu. ft. (1); pumps, battery, 3 to 6; fork-lift, bobcat and similar equipment; generator plant engineers, Diesel elec.; winch truck with A-Frame; roller; all types; outside elevator or building type of personnel hoist; concrete buster or tamper; heaters under jurisdiction of operating engineers; fireman; boiler operator; crushing plants; oiler distributor; pulvimixer; farmer tractor with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt bulk handling; screed operator; concrete pump; form grader; screening plant; well point pump operator; drilling machines when operated from console or machines
GROUP VIII
Permanent elevator - building type (automatic); concrete mixer, with hopper less than 18 cu. ft.; air compressor, 500 cu. ft. and under (1 or 2); welding machine (1 or 2); pump (1 or 2); greaser; tilt top trailer operator; fuelman; truck crane oiler driver or crane oiler; conveyor-single-continuous belt bulk handling; asphalt lay machine back end man

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	$10.90	.60	.50		.04
SHEET METAL WORKERS	12.31	.67	1.23		.07
SOFT FLOOR LAYERS:					
Resilient floor layers and carpet layers	11.20	.60		.65	.03
SPRINKLER FITTERS	13.71	.85	1.20		.08
TERRAZZO WORKERS	11.70		.70		
TERRAZZO WORKERS FINISHER	7.33				
TERRAZZO BASE MACHINE MAN	7.68				
TERRAZZO FLOOR MACHINE MAN	7.43				
TILE SETTERS	11.70		.70		
TILE & MARBLE FINISHERS	7.00				
TRUCK DRIVERS:					
Group I	9.70				
Group II	9.70				
Group III	9.40				

TRUCK DRIVERS CLASSIFICATION DEFINITION

GROUP I
Truck drivers for heavy equipment such as lowboys, heavy winch and floats

GROUP II
Heavy earth moving equipment such as dump trucks and Euclids

GROUP III
Truck drivers and swampers, such as dump trucks, flat beds, stake bodies, and 3/4 & 1/2 ton pick-up trucks

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day After Thanksgiving; G-Christmas Day

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 years 6%; over 5 years 8% of basic hourly rate. Plus 2½% of hourly rate.
b - PAID HOLIDAYS A through G

WELDERS --receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(ii).

SUPERSEDEAS DECISION

STATE: Oklahoma COUNTIES: Tulsa, Creek Craig, Ottawa, Delaware, Mayes and Rogers

DECISION NO. OK80-4062 DATE: Date of Publication

SUPERSEDES DECISION #OK79-4097 dated November 23, 1979 in 44FR67321

DESCRIPTION OF WORK: Building projects (excluding single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.60	.55	.85		.015
BOILERMAKERS	12.00	.975	1.00		.03
BRICKLAYERS-STONEMASONS:					
Tulsa, Delaware, Ottawa, Craig and Rogers Counties	12.49	.70	.40	.33	.06
Mayes County	12.25	.60	.40		.05
CARPENTERS:					
Area I	9.68	.45	.75		.07
Area II	9.62	.50	.40		
MILLWRIGHTS-PILEDRIVERMEN:					
Area I	9.98	.45	.75		.07
Area II	9.87	.50	.40		

CARPENTERS-MILLWRIGHTS-PILEDRIVERMEN AREA DEFINITIONS
AREA I - Tulsa, Creek, Craig, Rogers and Mayes Counties
AREA II - Delaware and Ottawa Counties

CEMENT MASONS:					
Cement Masons	12.29		.40		.16
Power tool operator	12.54		.40		.16
ELECTRICIANS:					
Electricians	12.15	.59	3%+.58		.07
Cable splicers	12.40	.59	3%+.58		.07
ELEVATOR CONSTRUCTORS	11.49	.895	.69	4%+a+b	.035
ELEVATOR CONSTRUCTORS' HELPER	70%JR	.895	.69	4%+a+b	.035
GLAZIERS:					
Area I	10.49	.70	.30		.01
Area II	8.05			.25	

GLAZIERS AREA DEFINITIONS
AREA I - Tulsa, Creek, Mayes, and Rogers Counties
AREA II - Craig, Delaware and Ottawa Counties

IRONWORKERS	12.10	.75	.85		.12
LABORERS:					
Group I	8.85	.25	.40		
Group II	9.15	.25	.40		
Group III	9.25	.25	.40		
Group IV	9.70	.25	.40		

LABORERS CLASSIFICATION DEFINITIONS

GROUP I
All digging and dirt work, firing of salamanders and smudge pots; loading & unloading of materials and equipment; loading and unloading of materials to and from hoist or cages for stock piling only; wheeling and placing of concrete; handling of lumber, steel, cement and distribution of materials; all cleaning, including cleaning of windows; wrecking and razing of building and all structures; cleaning when the man is directly tenders; and common laborers

GROUP II
All machines tool operators; all sewer and drain tile layers and handling at the ditch, excluding distribution; operators of water pumps up to 4 inches and slip form jacks; men erecting scaffolds and directly tending lathers, masons, cement masons and plasterers, mortar mixers, hod carriers and dry mixers; high work over 30 feet from the ground or floors; cement finisher laborer; work on swinging scaffold; all kettle and pot men, tank cleaning, all pipe doping treating and wrapping, including all men working with dope; mortar & plaster mixing machine, pump-crete machines, and gunite mixing machines, including placing of concrete; handling creosoted or treated materials, liquid acids, or like materials, when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which replaces wheel barrows or buggies previously used by laborers; all scale man on batch plants; all laborers screening sand, running sand drier, and feeding operating sand blaster, except nozzle; signalmen and cutting torch operators in connection with laborers work; concrete grader

GROUP III
Wagon drill operator

GROUP IV
Powdermen or blaster

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lathers	10.10				.01
LINE CONSTRUCTION:					
Linemen	10.60		3%		1/2%
Cable splicers	11.29		3%		1/2%
Hole digger operator	9.62		3%		1/2%
Heavy equipment operator (pole or cat equivalent)	9.62		3%		1/2%
Jackhammerman	7.93		3%		1/2%
Line truck (winch operator)	8.71		3%		1/2%
Powderman	9.62		3%		1/2%
Groundman	7.07		3%		1/2%
Truck driver (flat bed ton and half and under)	7.55		3%		1/2%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (Craig, Ottawa and Delaware Counties):					
Brush, roller, tapers and paperhangers	$ 7.92		.30		
Spray, steamclean, sandblast & pot tenders	8.295		.30		
PAINTERS (Tulsa, Creek, Rogers & Mayes Counties):					
Brush	11.75		.40		.07
Highwork & stage	12.15		.40		.07
Spray and sandblasting	12.40		.40		.07
Hot or bituminous	13.05		.40		.07
Sheetrock handtools	11.75		.40		.07
Sheetrock power tools	12.15		.40		.07
PIPEFITTERS	13.77	.65	.75		.08
PLASTERERS	10.10				.01
PLUMBERS	13.77	.65	.75		.08
POWER EQUIPMENT OPERATORS:					
GROUP I	13.20	.70	.50		.12
GROUP II	12.70	.70	.50		.12
GROUP III	12.20	.70	.50		.12
GROUP IV	11.95	.70	.50		.12
GROUP V	11.70	.70	.50		.12
GROUP VI	11.45	.70	.50		.12
GROUP VII	11.20	.70	.50		.12
GROUP VIII	10.20	.70	.50		.12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - All crane type equipment with 300' of boom or over (including jib)
GROUP II - All crane type equipment with 100-200' of boom (including jib)
GROUP III - All crane type equipment with 100-200' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more
GROUP IV - Sideboom (booms 30' and over); Guy Derrick
GROUP V - Heavy duty mechanic; welder; crane-hook and overhead monorail; whirley; panel board batch plant op.; piledriver engineer; draqline; shovel; clamshell; backhoe (3/4 yd. & over); gradall; hydro crane; cherry picker; hoists while operation 2 or more drums; hoists while doing stack and chimney work (1 or 2 drums); power driven hole digger (with 30' and longer mast); motor patrol (blade)

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VI
Fork lift (35' & over); dozer (engine h.p. 65 or over); Fordson tractor or like quipment with hoe or loader equipment or ditcher; scraper type equipment; loader op. of hi-lift (engine h.p. 65 or over); asphalt lay machine; tail boom; conveyor-multiple, panel board control; power driven hole digger with less than 30' mast; trenching machine; concrete pump - boom type

GROUP VII
Locomotive engineer; boring machine; tug boat; mixer, 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist-when operating one drum; welding machine, 3 to 6; air compressor, 3 to 5, 500 cu. ft. and under; air compressor, over 500 cu. ft. (1); pumps, battery, 3 to 6; fork-lift, bobcat and similar equipment; generator plant engineers, Diesel elec.; winch truck with a Frame; roller, all types; outside elevator or building type of personnel hoist; concrete buster or tamper; heaters under jurisdiction of operating engineers; fireman; boiler operator; crushing plants; oiler distributor; pulvimixer; farmer tractor with or without attachments; batch plant operator (portable); conveyor operator-duel; continuous or belt bulk handling; screed op.; concrete pump; form grader; screening plant; well point pump op.; signal man on large whirleys when & if required; operator for rotary drilling machines when operated from console or machines

GROUP VIII
Permanent elevator-building type (automatic); concrete mixer, with hopper less than 18 cu. ft.; air compressor, 500 cu. ft. & under (1 or 2); welding machine (1 or 2); pump (1 or 2); greaser; tilt top trailer op.; fuelman; truck crane oiler driver or crane oiler; conveyor op.-single-continuous belt bulk handling; asphalt lay maching back end man;

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	10.90	.60	.50		.04
SHEET METAL WORKERS	12.06	.60	.66		.10
SOFT FLOOR LAYERS	7.71		.45	.81*	.03
*Plus 6 paid holidays - New Years Day; Memorial Day; July 4th; Labor Day; Thanksgiving and Christmas Day					
SPRINKLER FITTERS	13.71	.85	1.20		.08
TERRAZZO WORKERS	12.74	.70	.50		
TERRAZZO WORKERS AND TILE LAYERS FINISHERS	9.01	.70			
TERRAZZO WORKERS' FLOOR MACHINE OPERATOR	9.14	.70			
TERRAZZO WORKERS' BASE MACHINE OPERATOR	9.38	.70			
TILE LAYERS	12.74	.70	.50		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (DELAWARE CO.)					
Group I	$ 7.55				
Group II	7.65				
Group III	7.75				
Group IV	7.70				
Group V	7.85				
TRUCK DRIVERS (TULSA, CREEK, CRAIG, MAYES AND ROGERS COUNTIES):					
Group I	10.48				
Group II	10.53				
Group III	10.63				
Group IV	10.63				
Group V	10.63				

TRUCK DRIVERS CLASSIFICATION DEFINITION (DELAWARE COUNTY)

GROUP I - Pick-up, 1½ tons or 2½ yards and up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake bodies and buses
GROUP II - 3 tons or 4 yards and up to but not including 4 tons or 6 yards
GROUP III - 5 tons or 6 yards and over including heavy equipment such as pole trucks, winch trucks, euclids, Mississippi wagons, semi-dumps, turner pulls, or other heavy material moving equipment; tractor trailer drivers and similar equipment, such as tractors, ten wheelers
GROUP IV - Ready-mix concrete trucks up to but not including 3 yds.
GROUP V - Ready-mix concrete trucks 3 yards and over

TRUCK DRIVERS CLASSIFICATIONS DEFINITIONS (TULSA, CREEK, CRAIG, OTTAWA, MAYES AND ROGERS COUNTIES)

GROUP I - Truck drivers, including pick-up, 1½ tons or 2½ yards up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake body or bus driver.
GROUP II - 3 tons or 4 yards up to but not including 4 tons or 6 yds. or 6 yards
GROUP IV - Ready mix concrete truck
GROUP V - Tractor-trailer and similar equipment

FOOTNOTES:
a - 1st 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate.
b - Paid Holidays - A through F

PAID HOLIDAYS:
A-New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Friday after Thanksgiving Day; G-Christmas Day.

'Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(ii).

SUPERSEDEAS DECISION

STATE: OKLAHOMA COUNTY: Muskogee, Adair, Cherokee & Okmulgee

DECISION NO. OK80-4061 DATE: Date of Publication
Supersedes Decision #OK79-4098 dated November 23, 1979 in 44 FR67324
DESCRIPTION OF WORK: Building Projects (excluding single family homes & apartments up to and including 4 stories), and heavy construction within the City of Muskogee

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$12.60	.55	.85		.015
Boilermakers	12.00	.975	1.00		.03
BRICKLAYERS:					
Muskogee, Adair & Cherokee Counties	12.25	.60	.40		.05
Okmulgee County	11.75	.60	.40		.05
CARPENTERS (Area I)	10.38	.55	.75		.08
CARPENTERS (Area II)	9.85	.55	.80		.05
MILLWRIGHTS-PILEDRIVERMEN:					
Area I	10.88	.55	.75		.08
Area II	11.20	.55	.80		.05

CARPENTERS-MILLWRIGHTS-PILEDRIVERMEN AREA DEFINITIONS
AREA I - Muskogee, Adair and Cherokee Counties
AREA II - Okmulgee County

CEMENT MASONS (AREA I):					
Cement masons	9.90				
Power tool operator	10.15				
CEMENT MASONS (AREA II):					
Cement masons	12.29		.40		.16
Power tool operator	12.54		.40		.16

CEMENT MASONS & POWER TOOL OPERATORS AREA DEFINITIONS
AREA-I - Adair, Cherokee, Muskogee and Southern portion of Okmulgee Okmulgee Counties
AREA II - Northern portion of Okmulgee County

ELECTRICIANS:					
ZONE I - 20 mile radius from Post Office of City of Muskogee					
ZONE II - Area outside Zone I					
ZONE III - Okmulgee County					
ZONE I					
Electricians	12.55	.60	3%		1/2%
Cable splicers	12.95	.60	3%		1/2%
ZONE II					
Electricians	12.95	.60	3%		1/2%
Cable splicers	13.35	.60	3%		1/2%
ZONE III					
Electricians	12.15	.59	3%+.58		.06
Cable splicers	12.40	.59	3%+.58		.06
ELEVATOR CONSTRUCTORS	11.49	.895	.69	4%+a+b	.02
ELEVATOR CONSTRUCTORS HELPER	70%JR	.895	.69	4%+a+b	.02
GLAZIERS	10.49	.70	.30		.01
IRONWORKERS	12.10	.75	.85		.12

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (AREA I)					
Muskogee, Adair and Cherokee Counties					
GROUP I	$ 7.85	.25	.40		
GROUP II	8.15	.25	.40		
GROUP III	8.35	.25	.40		
GROUP IV	8.35	.25	.40		
LABORERS (AREA II)					
Okmulgee County					
GROUP I	8.85	.25	.40		
GROUP II	9.15	.25	.40		
GROUP III	9.25	.25	.40		
GROUP IV	9.70	.25	.40		

LABORERS CLASSIFICAION DEFINITIONS

GROUP I
All digging and dirt work, firing of salamanders and smudge pots; loading & unloading of materials and equipment; loading and unloading of materials to and from hoist or cages for stock piling only; wheeling and placing of concrete; handling of lumber, steel, cement and distribution of materials; all cleaning, including cleaning of windows; wrecking and razing of building and all structures; cleaning when the man is directly tenders; and common laborers

GROUP II
All machine tool operators; all sewer and drain tile layers and handling at the ditch, excluding distribution; operators of water pumps up to 4 inches and slip form jacks; men erecting scaffolds and directly tending lathers, masons, cement masons and plasterers, mortar mixers, hod carriers and dry mixers; high work over 30 feet from the ground or floors; cement finisher laborer; work on swinging scaffold; all kettle and pot men, tank cleaning, all pipe doping treating and wrapping, including all men working with dope; mortar & plaster mixing machine, pump-crete machines, and gunite mixing machines, including placing of concrete; handling creosoted or treated materials, liquid acids, or like materials, when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which replaces wheel barrows or buggies previously used by laborers; all scale man on batch plants; all laborers screening snad, running sand drier, and feeding operating sand blaster, except nozzle; signalmen and cutting torch operators in connection with laborers work; concrete grader

GROUP III
Wagon drill operator

GROUP IV
Powdermen or blaster

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction					
Lineman	10.60		3%		½%
Cable splicers	11.29		3%		½%
Hole digger operator	9.62		3%		½%
Heavy equipment operator (pole or cat equivalent)	9.62		3%		½%
Jack hammerman	7.93		3%		½%
Line truck (winch operator	8.71		3%		½%
Powderman	9.62		3%		½%
Groundman	7.07		3%		½%
Truck driver (flat bed ton and half and under)	7.55		3%		½%
Marble, Tile & Terrazzo Workers	12.74	.70	.50		
Painters (Okmulgee):					
Brush	11.75		.40		.10
Highwork and stage	12.15		.40		.10
Spray and sandblasting	12.40		.40		.10
Hot or bituminous	13.05		.40		.10
Sheetrock hand tools	11.75		.40		.10
Sheetrock power tools	12.15		.40		.10
Painters (Adair, Muskogee & Cherokee Counties):					
Brush painting & roller	10.55		.40	.20	.07
Highwork & Stage	11.15		.40	.20	.07
Sandblasting & Spray	11.40		.40	.20	.07
Hot or Bituminous	12.05		.40	.20	.07
Plumbers & Pipefitters	13.90	.60	1.10		.20
Plasterers	10.10				.01
POWER EQUIPMENT OPERATORS:					
GROUP I	13.20	.70	.50		.12
GROUP II	12.70	.70	.50		.12
GROUP III	12.20	.70	.50		.12
GROUP IV	11.95	.70	.50		.12
GROUP V	11.70	.70	.50		.12
GROUP VI	11.45	.70	.50		.12
GROUP VII	11.20	.70	.50		.12
GROUP VIII	10.20	.70	.50		.12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - All crane type equipment with 300' of boom or over (including jib)

GROUP II - All crane type equipment with 100-200' of boom (including jib)

GROUP III - All crane type equipment with 100-200' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more

GROUP IV - Sideboom (booms 30' and over). Guy Derrick

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP V

Heavy duty mechanic; welder; crane-hook and overhead monorail; whirley; panel board batch plant op.; piledriver engineer; dragline; shovel; clamshell; backhoe (3/4 yd. & over); gradall; hydro crane; cherry picker; hoists while operating 2 or more drums; hoists while doing stack and chimney work (1 or 2 drums); power driven hole digger (with 30' & longer mast); motor patrol (blade)

GROUP VI

Fork lift (35' & over); dozer (engine h.p. 65 or over); Fordson tractor or like quipment with hoe or loader equipment or ditcher; scraper type equipment; loader op. of hi-lift (engine h.p. 65 or over); asphalt lay machine; tail boom; conveyor-multiple, panel board control; power driven hole digger with less than 30' mast; trenching machine; concrete pump - boom type

GROUP VII

Locomotive engineer; boring machine; tug boat; mixer, 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist-when operating one drum; welding machine, 3 to 6; air compressor, 3 to 5, 500 cu. ft. and under; air compressor, over 500 cu. ft. (1); pumps, battery, 3 to 6; fork-lift, bobcat and similar equipment; generator plant engineers, Diesel elec.; winch truck with a Frame; roller, all types; outside elevator or building type of personnel hoist; concrete buster or tamper; heaters under jurisdiction of operating engineers; fireman; boiler operator; crushing plants; oiler distributor; pulvimixer; farmer tractor with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt bulk handling; screed op.; concrete pump; form grader; screening plant; well point pump op.; signal man on large whirleys when & if required; operator for rotary drilling machines when operated from console or machines

GROUP VIII

Permanent elevator-building type (automatic); concrete mixer, with hopper less than 18 cu. ft.; air compressor, 500 cu. ft. & under (1 or 2); welding machine (1 or 2); pump (1 or 2); greaser; tilt top trailer op.; fuelman; truck crane oiler driver or crane oiler; conveyor op.-single-continuous belt bulk handling; asphalt lay machine back end man;

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	10.90	.60	.50		.04
SHEET METAL WORKERS	12.06	.60	.66		.10
SPRINKLER FITTERS	13.71	.85	1.20		.08
TERRAZZO WORKERS FINISHER	9.01	.70			
TERRAZZO WORKERS FLOOR OP.	9.14	.70			
TERRAZZO WORKERS BASE MACHINE OPERATOR	9.38	.70			
TRUCK DRIVERS:					
GROUP I	10.43				
GROUP II	10.53				
GROUP III	10.63				
GROUP IV	10.58				
GROUP V	10.73				

TRUCK DRIVERS CLASSIFICATION DEFINITION

GROUP I
Pick-up, 1½ tons or 2½ yards and up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake bodies and buses.

GROUP II
3 tons or 4 yards and up to but not including 4 tons or 6 yds.

GROUP III
5 tons or 6 yards and over including heavy equipment such as pole trucks, winch trucks, euclids, Mississippi wagons, semi-dumps, turner pulls, or other heavy material moving equipment; tractor trialor drivers and similar equipment, such as tractors, ten wheelers

GROUP IV
Ready-mix concrete trucks up to but not including 3 yards

GROUP V
Ready-mix concrete trucks 3 yards and over

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:
a--1st 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate.
b--Paid Holidays - A through G

PAID HOLIDAYS:
A-New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Friday after Thanksgiving Day; G-Christmas Day

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(ii).

SUPERSEDEAS DECISION

STATE: RHODE ISLAND COUNTIES: STATEWIDE
DECISION NO. RI80-2054 DATE: Date of Publication
Supersedes Decision No. RI79-2065 dated August 17, 1979 in 44 FR 48587
DESCRIPTION OF WORK: Building (including Residential), Heavy, Highway, and Marine Construction Projects

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.18	1.45	1.33		
BOILERMAKERS	13.50	1.175	10%		.03
BRICKLAYERS; Stonemasons:					
Cities, Towns or Townships of Charlestown, Hopkinton, Peace Dale, Richmond, South Kingstown, Wakefield, & Westerly	11.30	1.20	1.25		.02
Remainder of State	11.30	1.20	1.25		.02
CARPENTERS; Millwrights; Piledrivermen; & Soft Floor Layers:					
Cities of Providence, Pawtucket, East Providence, Central Falls, Cranston, Warwick, Woonsocket; Towns of Barrington, Burrillville, Warren, Bristol, West Warwick, East Greenwich, West Greenwhich, North Providence, Johnston, Cumberland, Lincoln, Smithfield, North Smithfield, Foster, Scituate, Gloucester, Coventry, North Kingstown, South Kingstown, Exeter, Narragansett, Westerly, & Charlestown:					
Building	12.25	.75	1.10		.05
Residential	8.40	.65	.90		.05
Millwrights	10.75	.65	.90		.05
City of Newport; Towns of Middletown, Portsmouth, Jamestown, Tiverton, Little Compton, New Shoreham (Block Island), & Prudence Island:					
Carpenters; Soft Floor Layers	12.23	.85	1.00		.03
Millwrights (except cities of Tiverton & Little Compton); Piledrivermen	12.83	.85	1.00		.03

DECISION NO. RI80-2054

CARPENTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Millwrights (Cities of Tiverton & Little Compton	12.15	.95	1.00		.10
CEMENT MASONS; Plasterers:					
Woonsocket, N. Smithfield, Burrillville, Chepachet, Cumberland (N 1/3), & Lincoln	11.30	1.20	1.25		.02
Westerly, Hopkinton, South Kingstown, Charlestown, Richmond, Wakefield, & Peace Dale	11.30	1.20	1.25		.02
Remainder of State:					
Cement Masons	11.45	.90	.75		
Plasterers	10.85	.90	.45		
ELECTRICIANS:					
Tiverton & Little Compton	11.30	7%	3%+1.00	6%	½%
Westerly Township	13.05	1.50	3%+1.60		½%
Remainder of State	12.35	.73	3%+2.05		.02
ELEVATOR CONSTRUCTORS	11.355	1.045	.82	a&b	.035
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	1.045	.82	a&b	.035
GLAZIERS	10.25	.62	1.38		.01
IRONWORKERS:					
Ornamental; Reinforcing; & Structural	12.33	1.15	2.35		.05
LABORERS:					
Laborers; Carpenter Tenders; Cement Finisher Tenders; Mason Tenders; Scaffold Erectors & Wrecking Laborers	9.55	.75	1.10		.10
Asphalt Rakers; Adzemen; Pipe-Trench Bracers; Demolition Burners; Chain Saw Ops.; Fence & Guard Rail Erectors; Setters of Metal Forms for Roadways; Pipelayers; Riprap & Dry Stonewall Builders; Highway Stone Spreaders					

DECISION NO. RI80-2054

LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Pneumatic Tool Ops.; Wagon Drill Ops.; Tree Trimmers; Barco Type Jumping Tampers; Mechanical Grinder Ops.; Plasterers' Tenders; Scaffold Builders; & Mortar Mixers	9.80	.75	1.10		.10
Pre-cast Floor and Roof Plank Erectors	10.05	.75	1.10		.10
Pumping Machine Operator	10.15	.75	1.10		.10
Air Track Ops.; Block Pavers; Rammers; & Curb Setters	10.30	.75	1.10		.10
Blasters; Powdermen	10.55	.75	1.10		.10
LATHERS:					
Newport Co. (Southern ½)	11.65	.70	1.00		.04
Remainder of State	10.19	.65	.85		.01
MARBLE SETTERS; Terrazzo Workers; & Tile Setters	11.00	1.10	1.15		
MARBLE SETTERS' FINISHERS; Terrazzo Workers Finishers; & Tile Setters' Finishers	10.30		1.25		
PAINTERS:					
Adamsville, Compton, Little Compton, North Tiverton, Sakonnet, & Tiverton:					
Brush; Tapers:					
New Construction	11.71	.82	1.40		.04
Repaint	9.96	.82	1.40		.04
Sandblasting; Spray	12.71	.82	1.40		.04
Steel	13.83	.82	1.40		.04
Remainder of State:					
Brush; Roller; Tapers	10.65	.60	.95		
Structural Steel; Steamcleaning	10.90	.60	.95		
Air Power Brush	11.15	.60	.95		
Spray & Sand or Water Blasting	11.65	.60	.95		
PAINTERS, Sign:					
Bristol, Kent, & Providence Cos.	8.00	.54	.40	c+d	.04
PLUMBERS	11.21	.90	2.15		.07
ROOFERS:					
Composition, Waterproofers	10.00	.65	.45		
Slate, Tile, Precast Concrete	10.20	.65	.45		
SHEET METAL WORKERS	11.28	.96	1.55		.12
SPRINKLER FITTERS	12.31	.75	1.05		.01
STEAMFITTERS	13.15	.83	1.78		.07

DECISION NO. RI80-2054

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS; Stonemasons; Catch Basins; Manhole Builders	11.25	1.20	1.25		.02
CARPENTERS; Piledrivermen: Bristol, Kent, Providence & Washington (excluding Block Island) Cos.	12.26	.75	1.10		.05
CARPENTERS; Millwrights; Piledrivermen; & Wharf, Bridge & Dock Carpenters: Newport County & Block Island	12.83	.85	1.00		.03
Marine Divers	20.50	.85	1.00		.03
CEMENT MASONS & FINISHERS	9.35	.50	.35		
ELECTRICIANS:					
Little Compton & Tiverton	11.30	7%	3%+1.00	6%	½%
Westerly Township	13.05	1.50	3%+1.60		½%
Remainder of State	12.35	.73	3%+2.05		.02
IRONWORKERS: Ornamental; Reinforcing; & Structural	12.33	1.15	2.35		.05
LABORERS:					
Laborers; Carpenter & Cement Finisher Tenders & Wrecking Laborers	9.55	.75	1.10		.10
Adzeman; Asphalt Rakers; Barco-type Jumping Tampers; Chain Saw Ops.; Concrete & Power Buggy Ops.; Concrete Saw Ops.; Demolition Burners; Fence & Guard Rail Erectors; Highway Stone Spreaders; Mason Tenders; Mechanical Grinder Ops.; Mortar Mixers; Pipelayers; Pipe-Trench Bracers; Pneumatic Tool Ops.; Riprap & Dry Stonewall Builders; Scaffold Erectors; Setters of Metal Forms for Roadways; Wagon Drill Ops.; Wood Chipper Ops.	9.80	.75	1.10		.10

DECISION NO. RI80-2054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air track Drill Ops.; Brick Pavers; Block Pavers; Rammers; Curb Setters	10.30	.75	1.10		.10
Blasters & Powdermen	10.55	.75	1.10		.10
Open Air Caisson, Underpinning and Boring Crew:					
Bottom Man	10.30	.75	1.10		.10
Laborer, Top Man	9.55	.75	1.10		.10
Driller	10.42	.75	1.10		.10
LINE CONSTRUCTION:					
Linemen	12.50	.70	3%+.50	e	3/8%
Cable Splicer; Driver Groundman & Equipment Operator	11.17	.70	3%+.50	e	3/8%
Groundman	8.18	.70	3%+.50	e	3/8%
PAINTERS:					
Adamsville, Compton, Little Compton, North Tiverton, Sakonnet, & Tiverton:					
Brush; Tapers:					
New Construction	11.71	.82	1.40		.04
Repaint	9.96	.82	1.40		.04
Sandblasting; Spray	12.71	.82	1.40		.04
Steel	13.83	.82	1.40		.04
Remainder of State:					
Brush; Roller; Tapers	10.65	.60	.95		
Structural Steel; Steamcleaning	10.90	.60	.95		
Air Power Brush	11.15	.60	.95		
Spray & Sand or Water Blasting	11.65	.60	.95		
PAINTERS, Sign:					
Bristol, Kent & Providence Cos.	8.00	.54	.40	c+d	.04
PLUMBERS	11.21	.90	2.15		.07
WELDERS receive rate prescribed for craft performing operation to which welding is incidental.					

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PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:

a 7 paid holidays: A through F, plus Day after Thanksgiving
b. Employer contributes 8% basic hourly rate for 5 years or more of service; 6% basic hourly rate for 6 months to 5 years of service as vacation pay credit
c. 9 paid holidays: A through F, plus V J Day; Columbus Day; & Veterans Day
d One year's seniority - one week's paid vacation; 2 years' seniority - 2 weeks' paid vacation
e 7 paid holidays: A through F, plus Columbus Day provided employee has been employed 5 working days prior to the holiday and provided the employee works the scheduled work days immediately preceding and following the holiday

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POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr.
Digging Machine; Ross Carriers; Cranes; Pile Drivers; Lighters; Locomotives; Derricks; Hoists; Pavers; and Front End Loaders 3 yds. and over	11 765	95	1 15		10
Econdmobile Type Equipment	11 54	.95	1 15		10
Fork Lift	11 34	95	1 15		10
Firemen and Oilers	9 04	95	1 15		10
Bulldozers; Graders; Spreaders; Tractors; Scrapers and Rollers	10 34	95	1 15		.10
Front-end Loaders less than 3 yards	10 84	95	1 15		.10
Pipping Type Backhoes	10 69	95	1 15		10
Maintenance Engineers	10 29	95	1 15		10
Well-point Installation	10 415	95	1 15		10
Gas or electric driven Pumps; Heaters; Concrete Mixers; Concrete Pumps; Stone Crushers; Air Compressors; Welding Machines and Generators for Light Plants	9 59	95	1 15		10
BRIDGES, CAISSONS, DOCKS, MARINES PIERS, SUB-BASEMENT SUBTERRANEAN, TUNNELS, AND HEAVY CONSTRUCTION					
Digging Machines; Cranes; Pile Drivers; Lighters; Locomotives; Derricks; Hoists; Pavers; & Front End Loaders, 3 Yds & over	12 49	95	1 15		10

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POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Firemen and Oilers	9.615	.95	1.15		.10
Bulldozers; Graders; Spreaders; Scrapers; Rollers	11.04	.95	1.15		.10
Front-end Loaders, less than 3 yds.	11.54	.95	1.15		.10
Maintenance Engineers	11.19	.95	1.15		.10
Well-point Installation Crews	11.215	.95	1.15		.10
Gas or Electric Driven Pumps; Heaters; Concrete Mixers; Concrete Pumps; Stone Crushers; Air Compressors; Welding Machines; and Generators for Light Plants	10.04	.95	1.15		.10
Boat and Tug Operators	12.115	.95	1.15		.10
Deckhands	10.515	.95	1.15		.10

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POWER EQUIPMENT OPERATORS WATER and SEWERLINE PROJECTS, HIGHWAY and BRIDGE INCIDENTAL TO HIGHWAY CONSTRUCTION PROJECTS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	11.595	.95	1.15		.10
CLASS 2	10.745	.95	1.15		.10
CLASS 3	10.125	.95	1.15		.10
CLASS 4	8.375	.95	1.15		.10
CLASS 5	10.075	.95	1.15		.10
CLASS 6	10.575	.95	1.15		.10
CLASS 7	10.195	.95	1.15		.10
CLASS 8	10.175	.95	1.15		.10
CLASS 9	9.825	.95	1.15		.10
CLASS 10	9.195	.95	1.15		.10
CLASS 11	9.175	.95	1.15		.10
CLASS 12	8.975	.95	1.15		.10
CLASS 13	9.645	.95	1.15		.10
CLASS 14	8.975	.95	1.15		.10
CLASS 15	10.025	.95	1.15		.10

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POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

CLASS 1 - Digging Machines; Cranes; Pile Drivers; Lighters; Locomotives; Derricks; Hoists; Front End Loaders (3 to 4 yds.); Economobiles; Ross Carriers; and Pavers

CLASS 2 - Forklifts

CLASS 3 - Firemen

CLASS 4 - Oilers

CLASS 5 - Bulldozers; Spreaders; Rollers; Tractors

CLASS 6 - Front End Loaders, less than 3 yards

CLASS 7 - Scrapers; Graders; Dozer Pusher Operators

CLASS 8 - Pipping Type Backhoe Operators

CLASS 9 - Maintenance Engineers

CLASS 10 - Gas and Electric Driven Heaters; Pumps; Concrete Mixers; Stone Crushers; Air Compressors; Light Plants; Welding Machines; Concrete Pumps

CLASS 11 - Mechanic and Welders (Inside)

CLASS 12 - Bulldozers in Pits

CLASS 13 - Shovel Operators; Front End Loaders, 3 cu. yds.and over; Dragline and Crane Operators in Material yards

CLASS 14 - Test Boring Machine Operators

CLASS 15 - Well Point Installation Crews

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TRUCK DRIVERS HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	9.12	.9925	1.10	a+b	
CLASS II	9.27	.9925	1.10	a+b	
CLASS III	9.32	.9925	1.10	a+b	
CLASS IV	9.42	.9925	1.10	a+b	
CLASS V	9.52	.9925	1.10	a+b	
CLASS VI	9.77	.9925	1.10	a+b	
CLASS VII	10.02	.9925	1.10	a+b	

CLASS I - Pick-up Trucks; Station Wagons and Panel trucks
CLASS II - Two Axle, Tenders on Low Beds
CLASS III - Three Axle Equipment
CLASS IV - Four and Five Axle Equipment
CLASS V - Low Bed Trailers; Special Earth Moving Equipment under 35 Tons; Mechanics; Paving Restoration Vehicle and Vac Haul
CLASS VI - Special Earth Moving Equipment over 35 Tons
CLASS VII - Trailers when used on a double Hook-up (pulling 2 Trailers)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Holidays: A through F; Washington's Birthday, Columbus Day, Veteran's Day, V-J Day, providing Employee has worked at least One Day in the Calendar Week in which the Holiday falls.

b. Employee who has been on the Payroll for 1 year or more but less than 5 years and has worked 150 Days during the last Year of Employment shall receive 1 week's paid Vacation; 5 to 10 years - 2 Weeks' paid Vacation; 10 or more years - 3 weeks' paid vacation

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: West Virginia
LOCATION: State of West Virginia excluding the Counties of Berkeley, Jefferson, and Morgan
DECISION No.: WV80-3018 DATE: Date of Publication
Supersedes Decision No. WV78-3018 dated June 9, 1978 in 43 FR 25278
DESCRIPTION OF WORK: Building construction projects (does not include single family homes and apartments up to and including 4 stories). (See Heavy and Highway Construction General Wage Determination for all work in connection with the clearing and grading of the site, also all paving incidental to the project, and all incidental water lines and sewers utilities to within 5 feet of the building line.)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
AREA 1	10.77	.59	.89		.03
AREA 2	13.47	.85	1.25		
AREA 3	13.75	.50	1.10		.03

AREAS COVERED BY ASBESTOS WORKERS

AREA 1 - Hampshire and Hardy Counties.

AREA 2 - Barbour, Brooke, Grant, Hancock, Harrison, Marion, Marshall, Mineral, Monongalia, Ohio, Taylor, Tucker and Wetzel Counties.

AREA 3 - Boone, Braxton, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Greenbrier, Jackson, Kanawha, Lewis, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Nicholas, Pendleton, Pleasants, Pocahontas, Putnam, Raleigh, Randolph, Ritchie, Roane, Summers, Upshure, Wayne, Webster, Wirt, Wood and Wyoming Counties.

BOILERMAKERS:					
AREA 1	11.70	1.275	1.20		.04
AREA 2	9.815	7.5%	7%		.01

AREAS COVERED BY BOILERMAKERS

AREA 1 - Barbour, Boone, Braxton, Brooke, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hampshire, Hardy, Harrison, Jackson, Kanawha, Lewis, Lincoln, Logan, Marion, Marshall, Mason, McDowell, Mercer, Mineral, Mingo, Monongalia, Monroe, Nicholas, Ohio, Pendleton, Pleasants, Pocahontas, Preston, Putnam, Raleigh, Randolph, Ritchie, Roane, Summers, Taylor, Tucker Tyler, Upshur, Wayne, Webster, Wetzel, Wirt, Wood and Wyoming Counties.

AREA 2 - Hancock County.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS, STONE MASONS, MARBLE MASONS, TERRAZZO WORKERS, & TILE LAYERS:					
AREA 1	11.19	.65	.40		
AREA 2	12.57	.55	.50		.05
AREA 3	10.70				
AREA 4					
Bricklayers & Stone masons	11.52	.65	.75		
Marble Masons, Terrazzo workers, & Tile layers	12.19	.65	.50		
AREA 5					
Bricklayers & Stone Masons	13.23	.75	.40		
Marble Masons, Terrazzo Workers & Tile Layers	12.05	.75	.40		
AREA 6					
Bricklayers & Stone Masons	11.25	.60			
Marble Masons, Terrazzo Workers & Tile Layers	10.75	.60			
AREA 7					
Bricklayers & Stone Masons	11.96	.65	.67		.02
Tile Layers	11.81	.65	.67		.02
AREA 8					
Bricklayers, Stone Masons & Marble Masons	12.53	.65			.03
Tile Setters & Terrazzo Workers	10.48	.65			.03

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AREAS COVERED BY BRICKLAYERS, STONEMASONS ETC

AREA 1 - Hampshire & Mineral Counties.

AREA 2 - Barbour, Doddridge, Gilmer, Grant, Hardy, Harrison, Lewis, Marion, Monongalia, Pendleton, Pocahontas, Preston, Randolph, Taylor, Tucker, Upshur and Webster Counties.

AREA 3 - McDowell, Mercer, Monroe & Wyoming Counties.

AREA 4 - Boone, Braxton, Clay, Fayette, Greenbrier, Kanawha, Nicholas, Putnam, Raleigh, Summers and Logan Counties.

AREA 5 - Cabell, Lincoln, Mason, Mingo and Wayne Counties.

AREA 6 - Calhoun, Jackson, Pleasants, Ritchie, Roane, Wirt and Wood Counties.

AREA 7 - Marshall, Ohio, Tyler and Wetzel Counties.

AREA 8 - Brooke & Hancock Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN:					
AREA 1					
Carpenters					
Contracts under $100,000	11.93	.80	.31		.05
Contracts $100,000 or more	12.18	.80	.31		.05
Piledrivermen					
Contracts under $100,000	12.43	.80	.31		.05
Contracts $100,000 or more	12.68	.80	.31		.05
AREA 2					
Carpenters	11.37	.50	.60		.02
Piledrivermen	11.67	.50	.60		.02
AREA 3					
Carpenters	11.68	.99	1.00		.03
Piledrivermen	10.24	10%			½ of 1%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN: CONT'D:					
AREA 4					
Carpenters	12.46	.80	.75		.02
Piledrivermen	12.73	.80	.75		.02
AREA 5					
Carpenters	12.36	.45	.25		.02
Piledrivermen	12.61	.45	.25		.02
AREA 6					
Carpenters	10.67	.55	1.00		.03
Piledrivermen	10.96	.55	1.00		.03

AREAS COVERED BY CARPENTERS & PILEDRIVERMEN

AREA 1 - Barbour, Braxton, Doddridge, Gilmer, Harrison, Lewis, Marion, Monongalia, Pleasants, Preston, Randloph, Taylor, Tucker, Tyler, Upshur, Webster & Wetzel Counties.

AREA 2 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

AREA 3 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 4 - Boone, Clay, Fayette, Greenbrier, Jackson (southern portion including the towns of Leon, Ripley, Hereford), Kanawha, Lincoln, Logan, Mason, McDowell, Mercer, Monroe, Nicholas, Pocahontas, Putnam, Raleigh, Roane, Summers, and Wyoming Counties.

AREA 5 - Calhoun, Jackson (remainder of county), Ritchie, Wirt & Wood Counties.

AREA 6 - Cabell, Mingo & Wayne Counties.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS & PLASTERERS:					
AREA 1	10.34		.40		
AREA 2	12.09				.02
AREA 3	8.70				
AREA 4					
Cement Masons	12.45	.79			
Plasterers	9.10				.01
AREA 5					
Plasterers	11.58	.55			
AREA 6					
Cement Masons	11.43	.65			.03
AREA 7					
Cement Masons	13.04				
Plasterers	11.75				
AREA 8					
Cement Masons	7.36	.38	.05	.30	.03
AREA 9	11.92	.70			
AREA 10					
Cement Masons	6.90	.35			
AREA 11	11.53	.55	.50	a	.03

AREAS COVERED BY CEMENT MASONS & PLASTERERS

AREA 1 - Hampshire & Mineral Counties.

AREA 2 - Calhoun, Gilmer, Jackson, Mason (northern portion of the county, south to but not including Point Pleasant), Pleasants, Ritchie, Tyler, Wirt & Wood Counties.

AREA 3 - McDowell, Mercer, Monroe & Wyoming Counties.

AREA 4 - Boone, Braxton, Clay, Fayette, Kanawha, Lincoln (eastern half of county), Logan, Putnam, Raleigh & Roane Counties.

AREA 5 - Brooke, Marshall, Ohio, and Wetzel.

AREA 6 - Brooke, Hancock, Marshall, Ohio & Wetzel Counties.

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AREAS COVERED BY CEMENT MASONS & PLASTERERS (CON'T):

AREA 7 - Barbour, Doddridge, Harrison, Lewis, Taylor, Tucker, Upshur and Webster Counties.

AREA 8 - Marion, Monongalia Counties.

AREA 9 - Cabell, Lincoln (remainder of county), Mason (remainder of county) & Wayne Counties.

AREA 10 - Greenbrier County.

AREA 11 - Grant, Hardy, Pendleton, Pocohontas & Randolph Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Barbour, Doddridge, Harrison, Lewis, Randolph & Upshur Counties:					
Wiremen	10.95	.50	3%+.50	2.00	.03
Cable Splicers	12.045	.50	3%+.50	2.00	.03
Jackson, Pleasants, Ritchie, Tyler, Wirt & wood Counties:					
Wiremen	11.75	.50	3%+1.25	1.50	.04
Cable Splicers	12.00	.50	3%+1.25	1.50	.04
Brooke (Buffalo Twp. only), Marshall, Ohio & Wetzel Counties:					
Wiremen	12.60	.50	3%+.35	1.00	.04
Cable Splicers	12.85	.50	3%+.35	1.00	.04
Brooke (remainder of county) and Hancock (except Grant Twp.) Counties					
Wiremen	15.95	7%	14%		½%
Cable & Wayne Counties:					
Wiremen	12.52	.50	3%+1.02	1.02	.04
Cable Splicers	13.15	.50	3%+1.02	1.02	.04
Lincoln County:					
Wiremen	12.72	.50	3%+1.02	1.02	.04
Cable Splicers	13.36	.50	3%+1.02	1.02	.04

DECISION NO. WV80-3018	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D):					
Logan, Mason & Mingo Counties:					
Wiremen	12.97	.50	3%+1.02	1.02	.04
Cable Splicers	13.62	.50	3%+1.02	1.02	.04
Hampshire and Mineral County:					
Wiremen	11.40	.80	3%+.60		1%
Grant County:					
Wiremen	12.00	.80	3%+.60		1%
Greenbrier; McDowell; Mercer, Monroe & Pocahontas Counties:					
Wiremen	8.51	.30	3%		½ of 1%
Cable Splicers	8.91	.30	3%		½ of 1%
Hardy & Pendleton Counties:					
Contracts under $30,000 (excluding industrial plants):					
Wiremen	6.95	.50	3%		3/4 of1%
Contracts $30,000 or more (plus all contracts for industrial plants):					
Wiremen	10.95	.50	3%		3/4 of1%
Marion; Monongalia, Taylor Preston & Tucker Counties:					
Contracts under $12,000:					
Wiremen	6.15	.50	3%+.50	2.00	.02
Contracts over $12,000					
Wiremen	11.35	.50	3%+.50	2.00	.02
Cable Splicers	11.50	.50	3%+.50	2.00	.02
Hancock County (Grant Twp. only):					
Wiremen	10.26	8%	6½%	8%	1%
Cable Splicers	10.66	8%	6½%	8%	1%
Summers & Wyoming Counties:					
Contracts $15,000 or less:					
Wiremen	9.67	.50	3%+.67	.77	.06
Cable Splicers	9.97	.50	3%+.67	.77	.06
Contracts over $15,000:					
Wiremen	12.57	.50	3%+.67	.77	.06
Cable Splicers	12.87	.50	3%+.67	.77	.06

DECISION NO. WV80-3018	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D):					
Fayette (except Falls & Kanawha Twps.) County:					
Contracts $15,000 or less:					
Wiremen	9.47	.50	3%+.67	.77	.06
Cable Splicers	9.77	.50	3%+.67	.77	.06
Contracts over $15,000:					
Wiremen	12.37	.50	3%+.67	.77	.06
Cable Splicers	12.67	.50	3%+.67	.77	.06
Raleigh (except Clear Fork & Marsh Fork Twps.) County:					
Contracts $15,000 or less:					
Wiremen	9.17	.50	3%+.67	.77	.06
Cable Splicers	9.47	.50	3%+.67	.77	.06
Contracts over $15,000:					
Wiremen	12.07	.50	3%+.67	.77	.06
Cable Splicers	12.37	.50	3%+.67	.77	.06
Boone, Braxton, Calhoun, Clay, Fayette (Falls & Kanawha Twps), Gilmer, Kanawha, Nicholas, Putnam, Raleigh (Clear Fork & Marsh Fork Twps.), Roane & Webster Counties:					
Wiremen	13.50	.50	3%+.75		.04
Cable Splicers	14.85	.50	3%+.75		.04
ELEVATOR CONSTRUCTORS:					
Brooke, Hancock, Marshall Ohio Counties:					
Mechanics	11.80	1.045	.82	b+c	.035
Helpers	8.26	1.045	.82	b+c	.035
Probationary Helpers	5.90				
Boone, Clay, Fayette, Kanawha, Jackson, Lincoln, Putnam & Roane Counties:					
Mechanics	12.44	1.045	.82	b+c	.035
Helpers	8.71	1.045	.82	b+c	.035
Probationary Helpers	6.22				
Cabell, Mason & Wayne Counties:					
Mechanics	12.95	1.045	.69	b+c	.03
Helpers	9.065	1.045	.69	b+c	.03
Probationary Helpers	6.475				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS:					
AREA 1	10.53		.15		
AREA 2	11.30		.80		
AREA 3	9.12	.60	.60		.01

AREAS COVERED BY GLAZIERS

AREA 1 - Jackson, Pleasants, Ritchie, Roane, Tyler, Wirt & Wood Counties.

AREA 2 - Boone, Cabell, Calhoun, Clay, Fayett, Greenbrier, Kanawha, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Nicholas, Pendleton, Pocahontas, Putnam, Raleigh, Summers, Wayne & Wyoming Counties.

AREA 3 - Marshall, Ohio & Wetzel Counties.

IRONWORKERS - Structural, Ornamental & Reinforcing:					
AREA 1	11.95	1.00	1.45		.03
AREA 2	12.60	.90	1.75		.05
AREA 3	12.25	1.00	1.45		.09
AREA 4	10.44	.60	.90		
AREA 5	10.55	.80	.85		.03
AREA 6					
Zone 1 - 10 miles from Union Hall	12.07	.90	1.05		.01
Zone 2 - 10-15 miles from Union Hall	12.22	.90	1.05		.01
Zone 3 - 15-20 miles from Union Hall	12.32	.90	1.05		.01
Zone 4 over 20 miles from Union Hall	12.42	.90	1.05		.01

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AREA COVERED BY IRONWORKERS

AREA 1 - Calhoun, Doddridge, Gilmer, Jackson, Lewis, Mason, Pleasants, Ritchie, Roane, Upshur, Wirt & Wood Counties.

AREA 2 - Barbour, Brooke, Hancock, Harrison, Marion, Marshall, Monongalia, Ohio, Taylor, Tyler & Wetzel Counties.

AREA 3 - Boone, Braxton, Clay, Fayette, Kanawha, Lincoln, Logan, McDowell, Nicholas, Putnam, Raleigh, Webster & Wyoming Counties.

AREA 4 - Grant, Hampshire, Hardy, Mineral, Pendleton, Preston, Randolph & Tucker Counties.

AREA 5 - Greenbrier, Mercer, Monroe, Pocahontas & Summers Counties.

AREA 6 - Cabell, Mingo & Wayne Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
AREA 1					
Group 1	9.10	.60	.60		.05
Group 2	9.50	.60	.60		.05
Group 3	9.80	.60	.60		.05
AREA 2					
Group 1	9.02	.60	.60		.05
Group 2	9.34	.60	.60		.05
Group 3	9.72	.60	.60		.05
AREA 3					
Group 1	8.32	.60	.60		.05
Group 2	8.72	.60	.60		.05
Group 3	9.03	.60	.60		.05
AREA 4					
Group 1	9.44	.60	.60		.05
Group 2	9.84	.60	.60		.05
Group 3	10.09	.60	.60		.05
AREA 5					
Group 1	9.44	.60	.60		.05
Group 2	9.84	.60	.60		.05
Group 3	10.09	.60	.60		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D):					
AREA 6					
Group 1	9.50	.60	.60		.05
Group 2	9.80	.60	.60		.05
Group 3	10.15	.60	.60		.05
AREA 7					
Group 1	9.42	.60	.60		.05
Group 2	9.72	.60	.60		.05
Group 3	10.07	.60	.60		.05
Group 4	10.02	.60	.60		.05
AREA 8					
Group 1	9.40	.70	.90		.10
Group 2	9.57	.70	.90		.10
Group 3	9.60	.70	.90		.10
Group 4	9.73	.70	.90		.10
Group 5					
50' to 100'	9.73	.70	.90		.10
100' to 150'	9.90	.70	.90		.10
over 150'	10.30	.70	.90		.10
Group 6	10.08	.70	.90		.10
Group 7	9.64	.70	.90		.10
Group 8	9.93	.70	.90		.10
Group 9	9.73	.70	.90		.10
Group 10	10.23	.70	.90		.10

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CLASSIFICATION DEFINITIONS
LABORERS - AREAS 1,2,3,4,5

GROUP 1 - Laborers; carpenter tender; flagmen; water boy; demolition worker; fire watch; landscape laborer.

GROUP 2 - Powderman helper; semi-skilled laborer; scaffold builders; chainmen & rod men; grade checker; signal man; brick masons tenders; plasterer tenders; cement finishers tenders; stone masons tenders; lathers tenders; tile setters tenders; mortar mixers; jackhammer operators; vibrator operators; tamper operators; pavement buster operators; chipping & peening hammer operators; air syphon & air pump operators; riprap finishers; concrete saw operators; concrete technician; power saw operators; chain saw operators; motorized buggy operators; pipelayers helpers; drill operators helpers; sheeters & shorers; post hole digger operators; asphalt rakers; lance and/or water blaster operators; blacksmith helpers; batch house scale operators; workmen working with acid mortar, acid brick, acid or mastic asphalt; workmen working creosote; nozzlemen for gunnite or sandblasting; tool room attendants; ride or walk roller tampers.

GROUP 3 - Blacksmith; powdermen; air track operator; pipe layer (including laser beam set-up); burner.

LABORERS - AREAS 6

GROUP 1 - Laborers; carpenter tender; flagmen; water boy; demolition worker; fire watch; landscape laborer.

GROUP 2 - Powderman helper; semi-skilled laborer; scaffold builders; chainmen & rod men; grade checker; signal man; brick masons tenders; plasterer tenders; cement finishers tenders; stone masons tenders; lathers tenders; tile setters tenders; mortar mixers; jackhammer operators; vibrator operators; tamper operators; pavement buster operators; shipping & peening hammer operators; air syphon & air pump operators; riprap finishers; concrete saw operators; concrete technician; power saw operators; chain saw operators; motorized buggy operators; pipelayers helpers; drill

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LABORERS - AREAS 6 (CONT'D):

GROUP 2 (CONT'D) - operators helpers; sheeters & shorers; post hole digger operators; asphalt rakers; lance and/or water blaster operators; blacksmith helpers; batch house scale operators; workmen working with acid mortar, acid brick, acid or mastic asphalt workmen working creosote; nozzlemen for gunnite or sandblasting; tool room attendants; ride or walk roller tampers.

GROUP 3 - Blacksmith; air track operator; pipe layer (including laser beam set-up); burner.

LABORERS - AREAS 7

GROUP 1 - Laborers; carpenter tender; flagmen; water boy; fire watch; landscape laborer; tool room attendants

GROUP 2 - Powderman helper; semi-skilled laborer; scaffold builders; chainmen & rod men; grade checker; signal man; brick masons tenders; plasterer tenders; cement finishers tenders; stone masons tender jackhammer operators; vibrator operators; tamper operators; pavement buster operators; chipping & peening hammer operators; air syphon & air pump operators; riprap finishers; concrete saw operators; concrete technician; power saw operators; chain saw operators; motorized buggy operators; pipelayers helpers; drill operators helpers; sheeters & shorers; post hole digger operators; asphalt rakers; lance and/or water blaster operators; blacksmith helpers; batch house scale operators; workmen working with acid mortar, acid brick, acid or mastic asphalt; workmen working creosote; nozzlemen for gunnite or sandblasting; ride or walk roller tampers; demolition work; leadman on concrete hose; scaffolding work over 50 ft. (inside and outside)

GROUP 3 - Blacksmith; powdermen; air track operator; pipe layer (including laser beam set-up); burner.

GROUP 4 - Deep ditch vertical 6 ft. or more

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LABORERS - AREA 8

GROUP 1 - General laborers, flag persons, carpenter tenders, toolroom men, and drinking water supplier.

GROUP 2 - All Brick Handlers, Tenders for Brick Masons, Plasterers, Stone Masons Tile Setters, Mortormen for Masons and Plasterers and Men Mixing Cement for Cement Finishers, Scaffold Builders, Mortar Mixer Machine Operator.

GROUP 3 - Laborers Operating Concrete Busters, Jack Hammers, Air Spades, Chipping Hammers, Air Tampers, Vibrators, Power Buggy, Concrete Saw, Power Buggy, Concrete Saw, Power Saw, Sandblaster, Acetylene Burners, Scuba Diver, Panel Cleaning Machine Operators, Signalmen, All Power Driven Tools, Air Pump, Air Blow Pipe, Pipelayer and Helper Working in Ditches or Tunnels, Hand Spikers on Railroads, and Laborer Handling Concrete for Test or working with Tar, Acid, and Creosote

GROUP 4 - Laborers performing work pertaining to or in connection with and repair of Stoves, Blast Furnaces, Basic Oxygen Process Furnaces, Kilns, Soaking Pits, Coke Batteries on Industrial Work.

GROUP 5 - Demolition of Stacks

GROUP 6 - Blastermen and Helper, Bellman and Lancer, All Bottom men in Blast Furnaces, Stacks, Stoves and Dust Catchers, Mud Men and Laborers working with Carbon Brick and Handling Bottom Block on Blast Furnaces, Stacks, Stoves, and Dust Catchers.

GROUP 7 - Ditches, Trenches, Caissons and Coffers over 6' deep, open top.

GROUP 8 - Miners including Caissons and Coffers, Horizontal or Underground, Mucking Machine Operators.

GROUP 9 - Tunnel Laborers, Muckers including Caissons and Coffers, Horizontal and Underground.

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LABORERS - AREA 8 (CONT'D)

GROUP 10 - Gunite Nozzleman and Gunite Machine Operator--Grout Nozzleman and Grout Machine Operator.

AREAS COVERED BY LABORERS

AREA 1 - Boone, Clay, Fayette, Kanawha, Nicholas, Putnam & Roane Counties.

AREA 2 - Barbour, Braxton, Doddridge, Gilmer, Grant, Hampshire, Hardy, Harrison, Lewis, Marion, Mineral, Monongalia, Pendleton, Preston, Randolph, Taylor, Tucker, Upshur & Webster Counties.

AREA 3 - Greenbrier, McDowell, Mercer, Monroe, Pocahontas, Raleigh, Summers & Wyoming Counties.

AREA 4 - Cabell, Lincoln, Mason & Wayne Counties.

AREA 5 - Logan & Mingo Counties.

AREA 6 - Calhoun, Jackson, Pleasants, Ritchie, Tyler, Wirt & Wood Counties.

AREA 7 - Marshall, Ohio & Wetzel Counties.

AREA 8 - Brooke & Hancock Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
AREA 1	11.725		.10		
AREA 2	12.25		.20		.01
AREA 3	10.56	.50	.10		.01
AREA 4	8.98	.45	1.10		.01
AREA 5	9.315		.10		
AREA 6	10.78		.15		.01

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AREAS COVERED BY LATHERS

AREA 1 - Boone, Clay, Fayette, Kanawha, Putnam & Roane Counties.

AREA 2 - Barbour, Doddridge, Gilmer, Harrison, Lewis, Marion, Monongalia, Taylor, Tyler, Upshur & Wetzel Counties.

AREA 3 - Brooke, Marshall & Ohio Counties.

AREA 4 - Hancock County.

AREA 5 - Cabell, Mason & Wayne Counties.

AREA 6 - Calhoun, Jackson, Pleasants, Ritchie, Wirt & Wood Counties.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Greenbrier, McDowell, Mercer, Monroe & Pocahontas Counties:					
Linemen	8.66	.35	3%		½ of 1%
Cable Splicers	9.06	.35	3%		½ of 1%
Equipment Operators	7.45	.35	3%		½ of 1%
Truck with earth boring auger	6.06	.35	3%		½ of 1%
Truck with winch & groundmen	4.76	.35	3%		½ of 1%
Hampshire and Mineral Counties:					
Linemen	11.40	.80	3%+.70		
Equipment Operators	10.84	.80	3%+.70		
Truck Drivers & groundmen	7.42	.80	3%+.70		
Grant County:					
Linemen	12.00	.80	3%+.70		
Equipment Operators	11.44	.80	3%+.70		
Truck Drivers & groundmen	8.02	.80	3%+.70		
Hardy & Pendleton Counties:					
Linemen, cable splicers & equipment operators	12.11	.45	3%		½ of 1%
Truck with winch, pole or steel handling	7.43	.45	3%		½ of 1%
Groundmen	7.17	.45	3%		½ of 1%
Hancock County - Grant Twp. only:					
Linemen & Equipment Operators	10.26	8%	6½%	8%	1%
Cable Splicers	10.66	8%	6½%	8%	1%
Truck Drivers & Groundmen	9.36	8%	6½%	8%	1%
Raleigh (except Clear Fork and Marsh Fork Twps.):					
Linemen & Equipment Operators	11.97	.50	3%+.67	.77	½ of 1%
Cable Splicer	12.27	.50	3%+.67	.77	½ of 1%
Groundmen and Truck Drivers	9.57	.50	3%+.67	.77	½ of 1%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Summers & Wyoming Counties:					
Linemen & Equipment Operators	12.47	.70	3%+.67	.77	½ of 1%
Cable Splicers	12.77	.70	3%+.67	.77	½ of 1%
Groundmen and Truck Drivers	9.77	.70	3%+.67	.77	½ of 1%
Fayette County (except Falls and Kanawha Twps.):					
Linemen & Equipment Operators	12.27	.70	3%+.67	.77	½ of 1%
Cable Splicers	12.57	.70	3%+.67	.77	½ of 1%
Groundmen and Truck Drivers	9.81	.70	3%+.67	.77	½ of 1%
Marion, Monongalia, Taylor & Tucker Counties:					
Linemen & Equipment Operators	11.35	.50	3%+1.02	1.52	½ of 1%
Cable Splicers	12.485	.50	3%+1.02	1.52	½ of 1%
Groundmen & Truck Drivers	9.08	.50	3%+1.02	1.52	½ of 1%
Jackson, Pleasants, Ritchie Tyler, Wirt & Wood Counties:					
Linemen & Equipment Operators	11.65	.60	3%+1.25	1.50	½ of 1%
Cable Splicers	12.82	.60	3%+1.25	1.50	½ of 1%
Groundmen	9.32	.60	3%+1.25	1.50	½ of 1%
Brooke (Buffalo Twp. only) Marshall, Ohio & Wetzel Counties:					
Linemen & Equipment Operators	12.60	.50	3%+.35	1.00	.04
Cable Splicers	12.85	.50	3%+.35	1.00	.04
Groundmen	10.08	.50	3%+.35	1.00	.04
Brooke (except Buffalo Twp.) & Hancock (except Grant Twp.) Counties:					
Linemen & Equipment Operator	13.50	7%	10%	10%	
Cable Splicers	14.00	7%	10%	10%	
Groundmen	8.78	7%	10%	10%	

DECISION NO WV80-3018	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Barbour, Doddridge, Harrison, Lewis, Randolph, and Upshur Counties:					
Linemen & Equipment Operators	10 95	50	3%+ 50	2 00	½ of 1%
Cable Splicers	12 045	50	3%+ 50	2 00	½ of 1%
Groundmen & Truck Drivers	8 76	50	3%+ 50	2 00	½ of 1%
Boone, Braxton, Cabell, Calhoun, Clay, Fayette (Falls and Kanawha Twps only), Gilmer, Kanawha, Lincoln, Logan, Mason, Mingo, Nicholas, Putnam, Raleigh (Clear Fork and Marsh Fork Twps only), Roane, Wayne & Webster Counties:					
Linemen	13 68	60	3%+ 50	90	½ of 1%
Cable Splicers	15 05	60	3%+ 50	90	½ of 1%
Groundmen	8 89	60	3%+ 50	90	½ of 1%
Mechanized Equipment Operators	10.94	60	3%+ 50	90	
MARBLE, TERRAZZO & TILE FINISHERS:					
Statewide except for the Counties of Berkeley, Brooke, Cabell, Hancock, Jefferson, Lincoln, Mason (that portion south of the Kanawha River), Morgan, and Wayne					
Finishers	9 55	65			
Terrazzo floor grinders	9 70	65			
Terrazzo base grinding machine	9 80	65			
Cabell, Lincoln, Mason (that portion south of the Kanawha River), & Wayne Counties	9 87	75	40		

DECISION NO WV80-3018	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr.
MILLWRIGHTS:					
AREA 1	10 81	45	25		02
AREA 2	10 79	40	37		03
AREA 3	11 94	40	20		04
AREA 4	12 32	50	6%		02
AREA 5	12 76	80	75		02
AREA 6	12 43	60	55		06

AREAS COVERED BY MILLWRIGHTS

AREA 1 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties

AREA 2 - Cabell & Wayne Counties

AREA 3 - Barbour, Doddridge, Gilmer, Harrison, Marion, Lewis, Monongalia, Randolph, Taylor, Tucker, Upshur & Webster Counties

AREA 4 - Brooke, Hancock, Marshall & Ohio Counties

AREA 5 - Boone, Clay, Fayette, Greenbrier, Jackson (southern portion including the towns of Leon, Rippley & Hereford), Kanawha, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Nicholas, Pocahontas, Putnam, Raleigh, Roane, Braxton, Lincoln, Summers, and Wyoming Counties

AREA 6 - Calhoun, Jackson (remainder of county), Pleasants, Ritchie, Tyler, Wetzel, Wirt, & Wood Counties

DECISION NO. WV80-3018	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
AREA 1					
Brush, rollers, hanging wallcovering & installing seemless type floors	7.95		.50		
Spray, sandblasting & use of toxic materials	8.45		.50		
Drywall:					
Taping, spackling, sanding & finishing	9.85		.50		
AREA 2					
Painters -					
An area within 50 miles of Huntington, W.V.	9.73	.45	.35		.02
An area 50 miles and beyond of Huntington, W.V.	11.08	.45	.35		.02
Vinyl and all other wall covering and drywall taping -					
An area within 50 miles of Huntington, W.V.	10.48	.45	.35		.02
An area 50 miles and beyond of Huntington, W.V.	11.83	.45	.35		.02
Repaint work (limited to Public Schools) -					
An area within 50 miles of Huntington, W.V.	7.74	.45	.35		.02
An area 50 miles and beyond of Huntington, W.V.	9.09	.45	.35		.02
AREA 3					
Brush, roller, paper, vinyl hangers & seamless floors	8.67	.65	.50		.01
Glove	8.92	.65	.50		.01
Perfa-taping	9.04	.65	.50		.01
Brush height over 40'	9.17	.65	.50		.01
Spray, sandblast, seemless floor epoxy & steam cleaning	9.67	.65	.50		.01

DECISION NO. WV80-3018	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS CONT'D:					
AREA 4					
Brush & roller	6.20	.50	.40		
Spray	7.20	.50	.40		
Vinyl hanging & taping	8.15	.50	.40		
AREA 5					
Commercial	11.66				
Drywall finishers	11.93				
Vinyl wall covering	12.24		.20		
Structural steel after erection	12.57		.20		
Repaint structural steel	11.77		.20		
Towers, tanks & stacks	13.00		.20		
Sandblasting	13.64		.20		
Extra pay of heights 50' to 100' (+.50 per hour); over 100' (+$1.00 per hour)					
AREA 6					
New Construction:					
Brush	9.36		.30		.01
Roller	9.62		.30		.01
Spray & Blast	10.38		.30		.01
Pot-men	10.38		.30		.01
Commercial Repaint:					
Brush	7.94		.30		.01
Roller	8.22		.30		.01
Paperhanger	9.36		.30		.01
Drywall	9.81		.30		.01
Spray, pot-men	10.38		.30		.01
Paper & vinyl hangers	9.36		.30		.01
Open structural steel	9.71		.30		.01
Drywall pointers & tapers	9.81		.30		.01
Liquid tile brush	10.13		.30		.01
Stacks, vent pipes, flag poles, electrical, radio & T.V. Towers & tanks over 30' high	10.31		.30		.01
Hydroject, steam cleaning & glove work	10.38		.30		.01
Operating mechanical taping machines	10.81		.30		.01

DECISION NO. WV80-3018	Repaint Basic Hourly Rates	New Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS CONT'D:						
AREA 7						
Air compressor operator	9.07	9.96	.55			
Brush Painting	9.07	9.96	.55			
Roller, Dry-wall Pointers & Tapers Dipping & Mitten Work & Spray	9.46	10.36	.55			
Water Blasters, Steam Jenny Nozzle Men, Swinging Scaffold & boatswain Chair, Window Belt & Window Jack Work	10.27	10.88	.55			
Brush Painters on Bridges, Neddle Beam, Cable Work, Power Tool Work, Brush & Flame Cleaning	10.74	11.29	.55			
Operating Mechanical Taping Machines	10.98	11.68	.55			
Sand Blasters	11.09	11.64	.55			
All Stacks, Vent Pipe, Flag Poles in excess of 30' high, all Towers, Water Towers, Elevated Tanks, Electrical Switch Yards, Transformer Banks & Television Towers	12.21	12.67	.55			
Vinyl hangers & Paper hangers (with tools)	9.45	10.31	.55			

DECISION NO. WV80-3018	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS CONT'D:					
AREA 8					
Brush & Roller:					
Commercial	8.50				
Industrial	9.75				
Commercial Spray	8.50				
Structural Steel:					
Industrial	11.50				
Paperhanging & Wallcovering under 48"	8.50				
Paperhanging & Wallcovering over 48"	9.00				
Drywall Finishing	9.50				
Drywall Machine tools	10.10				
Power Cleaning Tools - 50¢ over appropriate scale					
Material emitting toxic vapor - $1.00 over appropriate scale					
Height clause - Additional $1.00 per hour per 100'					

AREAS COVERED BY PAINTERS

AREA 1 - Grant, Hampshire, Hardy, Mineral & Penndleton Counties.

AREA 2 - Cabell, Lincoln, Logan, Mason, Mingo & Wayne Counties.

AREA 3 - Brooke (south of Buffalo Creek), Marshall, Ohio & Wetzel Counties.

AREA 4 - Brooke (remainder of county) & Hancock Counties.

AREA 5 - Barbour, Doddridge, Gilmer, Harrison, Lewis, Marion, Randolph, Taylor, Tucker, Upshur & Webster Counties.

AREA 6 - Jackson, Pleasants, Ritchie, Roane, Tyler, Wirt & Wood Counties.

AREA 7 - Boone, Braxton, Clay, Fayette, Greenbrier, Kanawha, McDowell, Mercer, Monroe, Nicholas, Pocahontas, Putnam, Raleigh, Summers & Wyoming Counties.

AREA 8 - Monongalia and Preston Counties.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS:					
AREA 1	11.57	.65	1.00	1.157	.04
AREA 2	11.82	.65	1.00	1.182	.04
AREA 3	12.07	.65	1.00	1.207	.04
AREA 4	12.32	.65	1.00	1.232	.04
AREA 5	11.79	.75	1.06	1.18	.05
AREA 6	12.61	.50	8%	8%	.12
AREA 7	12.63	.50	.80		
AREA 8					
Zone 1 - within an 8 mile radius of Cabell County Courthouse, Huntington, W.V.	10.88	.60	1.40		.02
Zone 2 - 8 to 15 miles from the courthouse	11.08	.60	1.40		.02
Zone 3 - 15 to 25 miles from the Courthouse	11.28	.60	1.40		.02
Zone 4 - Over 25 miles from the courthouse	11.53	.60	1.40		.02
AREA 9					
Contracts to $75,000	8.55	.55	.60		.09
Contracts above $75,000	12.33	.55	.60		.09

AREAS COVERED BY PLUMBERS & PIPEFITTERS

AREA 1 - Harrison, Marion & Monongalia Counties

AREA 2 - Barbour, Doddridge, Lewis, Preston, Taylor & Upshur Counties.

AREA 3 - Braxton, Gilmer, Randolph and Tucker Counties

AREA 4 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

AREA 5 - Brooke (south of Buffalo Creek), Marshall, Ohio & Wetzel Counties.

AREA 6 - Brooke (remainder of county) & Hancock Counties.

AREA 7 - Calhoun, Jackson, Pleasants, Ritchie, Tyler, Wirt & Wood Counties.

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AREAS COVERED BY PLUMBERS & PIPEFITTERS CONT'D

AREA 8 - Cabell, Lincoln, Logan, Mason, Mingo & Wayne Counties.

AREA 9 - McDowell, Mercer, Monroe, Raleigh, Summers and Wyoming Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & STEAMFITTERS	12.95	.65	.80		.05

AREA COVERED BY PLUMBERS & STEAMFITTERS

Boone, Clay, Fayette, Greenbrier, Kanawha, Nicholas, Pocahontas, Putnam, Roane and Webster Counties.

POWER EQUIPMENT OPERATORS:					
Group 1	13.16	.90	.60		.10
Group 2	12.66	.90	.60		.10
Group 3	12.16	.90	.60		.10
Group 4	11.76	.90	.60		.10
Group 5	11.36	.90	.60		.10
Group 6	10.66	.90	.60		.10

CLASSIFICATION DEFINITIONS FOR POWER EQUIPMENT OPERATORS

Group 1 - All cranes, derricks and tower cranes with 250 feet of boom including mast and gibs or lifting capacity of 150 tons, and hoists 30,000 pound line pull or more, cableways.

Group 2 - Those operating cranes, derricks, tower cranes and similar equipment with a lifting capacity over 15 tons, all shovels, draglines, clamshells, tow boats or work boats, caisson drilling rigs, backhoes 1¼ cubic yard and over, endloaders 3 cubic yards and over, gradealls, all mechanics, side boom cat, and concrete mixing plants 3 cubic yards and over, hoist 18,000 pound line pull.

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CLASSIFICATION DEFINITIONS FOR POWER EQUIPMENT OPERATORS CONT'D

Group 3 - All cranes, derricks, tower cranes and similar equipment with a lifting capacity of 15 tons and under. Concrete mixing plant under 3 cubic yards, endloaders up to 3 cubic yards, backhoes up to 1¼ cubic yards, hoist in excess of 5,000 pound line pull, core drills, two drum hoist, concrete pump standard guage locomotive.

Group 4 - Material hoist, single drum, fireman, deckhand, well point system, elevators, fork lifts, ross carrier, air compressor (600 CFM or over), high compression equipment, Loed handler.

Group 5 - Trencher, air tugger, two bag mixer, concrete batch plant, "A" frame truck, rubber tired scrapper, power grader, dozer, tractor and pan, push cat, all tractors, oilers on standard guage locomotive, locomotive cranes, truck cranes, grease truck operator and greaser, asphalt and concrete paving equipment operator, brakeman on cranes used for moving rail cars (when equipment is moving cars only).

Group 6 - Roller and compactor, 1 bag concrete mixer, Barber Green loader, mechanic helper, crawler crane oiler, air compressor, welding machine (gasoline powered), light plant, generator, conveyor, mechanical heater and pump operator.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
AREA 1	10.43	.60	.20		
AREA 2	12.52	.70	.50		.02
AREA 3	13.05		.20		.01
(Roofers engaged in hot waterproofing which is applied vertically or in an enclosed area shall receive an additional $.50 per hour)					
AREA 4					
Composition Roofers	9.05	.45	.40		
Composition Mopmen	9.30	.45	.40		
Slaters	9.20	.45	.40		

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AREA COVERED BY ROOFERS

AREA 1 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 2 - Boone, Cabell, Clay, Fayette, Greenbrier, Kanawha, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Nicholas, Putnam, Raleigh, Summers, Wayne, Webster & Wyoming Counties.

AREA 3 - Barbour, Braxton, Calhoun, Doddridge, Gilmer, Harrison, Jackson, Lewis, Marion, Monongalia, Pendleton, Pleasants, Pocahontas, Preston, Randolph, Ritchie, Roane, Taylor, Tucker, Tyler, Upshur, Wetzel, Wirt & Wood Counties.

AREA 4 - Grant, Hardy & Mineral Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEETMETAL WORKERS:					
AREA 1	10.20		.25	2.00	.02
AREA 2	12.56	1.20	.825		.095
AREA 3	10.94	.45	.84		.04
AREA 4	12.73	.82	.60		.03
AREA 5	11.43	.65	.60		.08

AREAS COVERED ON SHEETMETAL WORKERS

AREA 1 - Grant, Hampshire, Hardy & Mineral Counties.

AREA 2 - Cabell, Lincoln, Logan, Mingo & Wayne Counties.

AREA 3 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 4 - Boone, Clay, Fayette, Greenbrier, Kanawha, Mason, McDowell, Mercer, Monroe, Nicholas, Putnam, Raleigh, Summers, Webster & Wyoming Counties.

AREA 5 - Barbour, Braxton, Calhoun, Doddridge, Gilmer, Harrison, Jackson, Lewis, Marion, Monongalia, Pendleton, Pleasants, Pocahontas, Preston, Randolph, Ritchie, Roane, Taylor, Tucker, Tyler, Upshur, Wetzel, Wirt & Wood Counties.

DECISION NO. WV80-3018	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:					
AREA 1	11.68	.99	1.00		.03
AREA 2	10.67	.55	1.00		.03
AREA 3	12.46	.80	.75		.02
AREA 4	11.96	.45	.25		.02

AREAS COVERED BY SOFT FLOOR LAYERS

AREA 1 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 2 - Cabell, Mingo & Wayne Counties.

AREA 3 - Boone, Clay, Fayette, Greenbrier, Jackson (southern portion including the Leon, Ripley, and Hereford), Kanawha, Lincoln, Logan, Mason, McDowell, Mercer, Monroe, Nicholas, Pocahontas, Putnam, Raleigh, Roane, Summers, and Wyoming Counties.

AREA 4 - Calhoun, Jackson (remainder of county), Ritchie, Wirt & Wood Counties.

SPRINKLER FITTERS	13.15	.75	1.05		.08
TRUCK DRIVERS:					
AREA 1					
Group 1	8.16	f	g		
Group 2	8.26	f	g		
Group 3	8.41	f	g		
Group 4	8.46	f	g		
Group 5	8.51	f	g		
Group 6	8.61	f	g		
Group 7	8.81	f	g		
AREA 2					
Group 1	9.20	d	n		
Group 2	9.30	d	n		
Group 3	9.45	d	n		
Group 4	9.60	d	n		
Group 5	9.85	d	n		
Group 6	9.95	d	n		

DECISION NO. WV80-3018	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS CONT'D:					
AREA 3					
Group 1	9.77	h	j	1.00	
Group 2	9.87	h	j	1.00	
Group 3	10.02	h	j	1.00	
Group 4	10.07	h	j	1.00	
Group 5	10.12	h	j	1.00	
Group 6	10.17	h	j	1.00	
Group 7	10.42	h	j	1.00	
AREA 4					
Group 1	6.10	k	i		
Group 2	6.20	k	i		
Group 3	6.40	k	i		
Group 4	6.45	k	i		
Group 5	6.50	k	i		
Group 6	6.88	k	i		
AREA 5					
Group 1	5.85	l	m		
Group 2	5.88	l	m		
Group 3	5.90	l	m		
Group 4	6.00	l	m		
Group 5	6.08	l	m		
Group 6	6.13	l	m		
Group 7	6.43	l	m		
Group 8	6.50	l	m		
Group 9	6.50	l	m		
Group 10	6.53	l	m		
AREA 6					
Group 1	8.50	e	e		
Group 2	8.51	e	e		
Group 3	8.55	e	e		
Group 4	8.58	e	e		
Group 5	8.60	e	e		
Group 6	8.83	e	e		
Group 7	9.13	e	e		
Group 8	9.23	e	e		

DECISION NO. WV80-3018

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS CONT'D:					
AREA 7					
Group 1	8.83	.90	1.15		
Group 2	8.98	.90	1.15		
Group 3	9.18	.90	1.15		
Group 4	9.37	.90	1.15		
Group 5	9.61	.90	1.15		

CLASSIFICATION DEFINITIONS
TRUCK DRIVERS - AREA 1

Group 1 - Warehousemen, yardmen, truck helpers, pick-ups, station-wagons, panel trucks, flatbody material truck (straight job), greasers, washers, tiremen, gas pumps attendants, dump trucks (up to 5 cubic yards)

Group 2 - Tank truck (straight)

Group 3 - Dump trucks (5 cubic yards and over), semi-dump trucks, semi-trailers, (whether flat rack, or pole and hauled or pushed by truck or tractor), agitator or mixer trucks (up to 5 cubic yards), farm type tractor, tank truck (semi).

Group 4 - Low-Boy trailers, winch trucks, fork trucks, distributor trucks (front and back end), truck crane, moni-rail truck.

Group 5 - Material checker and receiver, mechanics helpers.

Group 6 - Agitator or mixer truck (5 cubic yards and over).

Group 7 - Mechanics, euclid, dumpster, turnarocker, ross carriers, athey wagon or similar equipment, A-frame, hydrolift, dual purpose trucks.

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TRUCK DRIVERS AREA 2

Group 1 - Warehousemen, yardmen, truck helpers, pick-ups, station-wagons, panel trucks.

Group 2 - Flatbody material trucks (straight jobs), dump trucks (up to 5 cubic yards), greasers, washers, tiremen, gas pump attendants, mechanic helpers, material checkers & receivers, tank truck (straight).

Group 3 - Dump trucks (5 cubic yards & over), semi-dump trucks, semi-trailer (whether flat, rack or pole and hauled or pushed by truck or tractors), agitators or mixed trucks (up to 5 cubic yards), tank trucks (semi), monorail.

Group 4 - Low-boy trailers, winch trucks, fork truck, distributor trucks (front and back end), truck crane, agitators or mixer trucks (5 cubic yards & over), hydraulic tail gate, farm type tractors.

Group 5 - Euclids, dumpsters, turnarockers, ross carriers, athey wagons or similar equipment, A-frame, hydrolift, dual purpose trucks.

Group 6 - Mechanics.

TRUCK DRIVERS - AREA 3

Group 1 - Warehousemen, yardmen, truck helpers, pick-ups, station-wagons, panel trucks, flatbody material truck (straight job), greasers, washers, tiremen, gas pump attendants, dump trucks (up to 5 cubic yards)

Group 2 - Tank truck (straight)

Group 3 - Dump trucks (5 cubic yards and over), semi-dump trucks, semi trailers (whether flat rack or pole and hauled or pushed by truck or tractors), agitator or mixer trucks (UP to 5 cubic yards), tank truck (semi)

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TRUCK DRIVERS - AREA 3 CONT'D

Group 4 - Low-boy trailers, winch trucks, fork trucks, distributor trucks (front and back end), truck crane, moni-rail truck.

Group 5 - Material checker and receiver, mechanics helpers.

Group 6 - Agitator or mixer truck (5 cubic yards and over).

Group 7 - Mechanics, tri-axle dump trucks, hydraulic lift tailgate truck and farm type tractors, end dumpsters, turnarockers, ross carriers, athey wagon or similar equipment, A-frame, hydrolift, dual purpose trucks.

TRUCK DRIVERS - AREA 4

Group 1 - Warehouse, yardmen, truck helpers, pick-ups, station-wagons, panel trucks, team 2 - up.

Group 2 - Flatbody material trucks (straight jobs), dump trucks (up to 5 cubic yards), material checkers, material receivers, team 4 - up, greasers, tiremen and mechanic helpers (truck).

Group 3 - Semi-dump truck, semi-trailers (flat rack or pole), low-boy trucks, distributor trucks, agitators or mixer trucks (up to and including 5 yards) dump trucks and dumpster (5 to 12 yards).

Group 4 - Dump truck, agitator or mixer trucks and other hauling equipment (12 yards to 20 yards), mucker trucker, rubber-tired tractors (towing or pushing).

Group 5 - Dump truck, agitator or mixer trucks and other hauling equipment (20 yards and over)

Group 6 - "A" Frame operator, mechanics (truck).

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TRUCK DRIVERS - AREA 5

Group 1 - Flat bed material trucks, dump trucks, semi-dump trucks.

Group 2 - Tank trucks (straight & semi).

Group 3 - Semi-trailers, tractor trailers.

Group 4 - Pole trailer.

Group 5 - Agitator & mixer trucks (up to 5 cubic yards)

Group 6 - Euclids, dumpsters, turnarocker, ross carriers, athey wagons.

Group 7 - Agitator & mixer trucks (over 5 cubic yards)

Group 8 - Low-boy trailers, winch trucks, ford trucks (front and back end) truck crane.

Group 9 - A-Frame.

Group 10 - Mechanics.

TRUCK DRIVERS - AREA 6

Group 1 - Warehousemen, yardmen, truck helpers.

Group 2 - Greasers, washers, tiremen, gas pump attendants, mechanics helpers.

Group 3 - Flatboy material trucks, dump trucks, semi-trucks.

Group 4 - Tank trucks (straight & semi)

Group 5 - Semi-trailers & tractor trailers.

Group 6 - Euclids, dumpsters, turnarockers, ross carriers, athey wagons.

Group 7 - Low-boy trailers, winch trucks, A-frame, fork trucks, distributor (front & back end), truck crane.

Group 8 - Mechanics.

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TRUCK DRIVERS - AREA 7

Group 1 - Dumpmen & flagmen.

Group 2 - Pick-up trucks, dump tracks under 5 yard capacity, straight trucks.

Group 3 - Panel trucks, straight truck with multiple axle, dumpsters under 5 yard capacity, transit mix, dump trucks from 5 to 9 yards capacity, flat body material trucks (straight jobs), greasers, tiremen & mechanic helpers, rubber-tired (towing or pushing flatbody vehicles), & form trucks.

Group 4 - Dump trucks 10-15 yard capacity.

Group 5 - Dump trucks over 15 yard capacity, bottom and end dump euclids, all other euclid type trucks, turnarockers, ross carriers, athey wagons, A-frames, mechanics, semi-trailer or tractor trailers, low boy trucks, asphalt distributor trucks, agitator mixer, dumpcretes or batch trucks, specialized earth moving equipment, off highway tandem back-dump, twin engine equipment and double hitched equipment (where not self-loaded)

AREAS COVERED BY TRUCK DRIVERS

AREA 1 - Boone, Braxton, Clay, Fayette, Greenbrier, Kanawha, McDowell, Mercer, Monroe, Nicholas, Pocahontas, Putnam, Raleigh, Summers, Webster & Wyoming Counties.

AREA 2 - Calhoun, Gilmer, Jackson, Pleasants, Ritchie, Roane, Tyler, Wirt & Wood Counties.

AREA 3 - Cabell, Lincoln, Logan, Mason, Mingo & Wayne Counties.

AREA 4 - Barbour, Doddridge, Harrison, Lewis, Marion, Monongalia, Randolph, Taylor, Tucker & Upshur Counties.

AREA 5 - Marshall, Ohio & Wetzel Counties.

AREA 6 - Brooke & Hancock Counties.

AREA 7 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

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Welders - Receive rate prescribed for craft performing operation to which welding is incidental

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holiday: Christmas Day.

b. Paid Holidays: A through F.

c. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. Employer contributes $93.17 per month per employee employed 30 days or more.

e. Employer contributes $21.50 per week per employee.

f. Employer contributes $41.16 per month per employee employed 30 days or more.

g. Employer contributes $34.67 per month per employee.

h. Employer contributes $93.17 per month per employee employed 30 days or more.

i. Employer contributes $26.00 per month per employee employed 30 days or more.

j. Employer contributes $60.67 per month per employee employed 30 days or more.

k. Employer contributes $28.50 per month per employee employed 30 days or more.

l. Employer contributes $6.30 per week per employee.

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FOOTNOTES CONT'D:

m. Employer contributes $6.00 per week per employee.

n. Employer contributes $26.00 per month per employee employed 30 days or more.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

[FR Doc. 80-21190 Filed 7-17-80; 8:45 am]

BILLING CODE 4510-27-C

Federal Register

Friday
July 18, 1980

Part IV

Department of Health and Human Services

Public Health Services

Community Mental Health Centers; Final Rules for Grants and Applications for Grants and Proposed Rules for the Provisional Nature of Amounts of Initial Operation and Staffing, Conversion, and Financial Distress Grants

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 54

Grants for Community Mental Health Centers; Final Rule

AGENCY: Public Health Service, Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: This rule establishes requirements for grants and applications for grants under the Community Mental Health Centers Act (42 U.S.C. 2689 *et seq.*), excluding Part D thereof ("Rape Prevention and Control"), as amended by the Community Mental Health Centers Amendments of 1975 (Title III of the Act of July 29, 1975; Pub. L. 94–63), section 308 of the Health Services Extension Act of 1977 (in Title III of the Act of August 1, 1977; Pub. L. 95–83), the Community Mental Health Centers Extension Act of 1978 (Title I of the Act of November 9, 1978; Pub. L. 95–622), and section 8 of the Act of July 10, 1979 (Pub. L. 96–32). Also included are requirements for the development, submission, and approval of State plans. This rule derives from two previous Federal Register documents, the "Interim Rule" published June 30, 1976 (41 FR 26906) and the "Proposed Implementation" published November 2, 1976 (41 FR 48282). Based on consideration of public comments and statutory changes made in 1977 and 1978, this rule revises those "General Provisions" established at Subpart A of Part 54 of Title 42, Code of Federal Regulations, by the "Interim Rule." In addition, based on the "Proposed Implementation," consideration of public comments, and statutory changes this rule adds an additional section to Subpart A (§ 54.107) and adds five additional Subparts (B, C, D, E, and F), each of which relates to a separate grant authority within the Community Mental Health Centers Act.

EFFECTIVE DATE: September 1, 1980.

FOR FURTHER INFORMATION CONTACT: Lindsley Williams, Director, Office of Program Development and Analysis, National Institute of Mental Health, Parklawn Building, Room 17–C–17, Rockville, Maryland 20857, Telephone: (301) 443–3175.

SUPPLEMENTARY INFORMATION:

Introduction

On June 30, 1976, the Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, published an "Interim Rule" revising Part 54 of Title 42, Code of Federal Regulations (41 FR 26906). The purpose of that revision was to implement (in part) the amendments to the Community Mental Health Centers Act made by the Community Mental Health Centers Amendments of 1975 (Title III of the Act of July 29, 1975, Pub. L. 94–63).

The "Interim Rule" provided a 60-day comment period and indicated that, in the course of preparing final regulations, revisions would be made as warranted by the comments from the public. Forty-two comments were received during the comment period, and each has been given consideration.

Subsequently, on November 2, 1976, the Acting Assistant Secretary for Health, with the approval of the Acting Secretary of Health, Education, and Welfare, published proposed additional revisions of 42 CFR Part 54 (41 FR 48242). This "Proposed Implementation" continued the process of implementing the amendments to the Community Mental Health Centers Act made by the Community Mental Health Centers Amendments of 1975.

The "Proposed Implementation" provided a 45-day comment period and indicated that, in the course of preparing final regulations, revisions would be made as warranted by the comments. Sixty comments were received during the comment period, and each has been considered.

In addition, the Community Mental Health Centers Act has been amended three times since enactment of the Community Mental Health Centers Amendments of 1975 which authorized funding of the Community Mental Health Centers program for two years (fiscal years 1976 and 1977) and the publication of the "Interim Rule" and the "Proposed Implementation." The 1977 amendments (in section 308 of the Health Services Extension Act of 1977, Pub. L. 95–83) authorized funding for an additional year (fiscal year 1978) with some substantive amendments. The Community Mental Health Centers Extension Act of 1978 (Title I of Pub. L. 95–622) authorizes funding of the Community Mental Health Centers program for two additional years (fiscal years 1979 and 1980) and makes a number of substantive amendments. Finally, section 8 of Pub. L. 96–32 changed the effective date of some of the amendments made by Pub. L. 95–622.

The regulations established by the "Interim Rule" and the regulations proposed in the "Proposed Implementation" have been revised to take into account both public comment and intervening statutory amendments. In addition, they are being consolidated and reflect a number of editorial changes.

Many key provisions of the "Final Rule" and many of the more important changes made since the "Interim Rule" and the "Proposed Implementation" are summarized below. A complete section-by-section analysis of the "Final Rule" and these changes is appended to the "Final Rule" and appears in the Federal Register after the text of the provisions of 42 CFR Part 54 as amended by this Notice.

No new major policies are being established by the "Final Rule." Its major differences from the "Interim Rule" and the "Proposed Implementation" are that it:

(1) Establishes more flexible and rational rules for designating poverty areas.

(2) Requires applicants to disclose procedures for filling governing body vacancies; and to disclose certain information pertaining to potential conflicts of interest on the part of its members.

(3) Clarifies State reporting and certain other requirements.

A summary of each of the subparts of the regulation follows.

Subpart A—General Provisions

This subpart establishes standard grants administration requirements. In addition it:

(1) Adds (at § 54.102) regulatory definitions of the terms "costs" and "costs of operation" as applied to grants under the Act, as well as adding a definition of the term "approved program." In addition, this section now defines the term "other entity" as used in the expression "community mental health center (or other entity)".

(2) Implements (at § 54.103) the statutory requirements for designating poverty areas. The regulation specifies that, for a catchment area to qualify as a "poverty" area, at least 35 percent of its population must live in "subareas" of poverty. (The "subarea" approach, but not the 35 percent rule, is mandated by the Act; and the rule establishes a subarea as being in "poverty" if at least 15 percent of its residents are in poverty status as defined by the Department of Commerce.) The regulation provides for two exceptions to this rule: (a) A catchment area will not be designated as a poverty area if less than 10 percent of its total population is in poverty status; and (b) an area may seek designation of poverty status on a more flexible basis if its overall rate of poverty is greater than the national average and it fails to satisfy the basic test (at least 35 percent of the catchment area's population living in subareas

where the rate of poverty is at least 15 percent).

(3) Implements (at § 54.104) the statutory requirement that each State submit a comprehensive mental health services plan to the Public Health Service (PHS). The regulation requires that data used to support the plan must be updated at least once every five years, that States must provide evidence of public involvement in the development of these plans, and that certain other requirements must be met.

(4) Requires (at § 54.104(c)) that the population of each catchment area be between 75,000 and 200,000 except where waived by the Secretary.

(5) Implements (at §§ 54.106 (c)(3) and (f)(1)(ii)) the 1978 statutory amendments permitting certain grantees to establish an advisory committee in lieu of a governing body.

(6) Requires (at § 54.106(d)) each applicant to:.Describe the needs of the residents of the catchment area for each of the services to be provided, explain how those needs will be met, and justify any differences from the State's Comprehensive Mental Health Services plan required under the Act as well as other State and local plans mandated by other Federal statutes.

(7) Implements (at § 54.106(e) (1) and (3)) the 1978 statutory amendment removing the need for certain applications for grants to be reviewed and approved each year by the National Advisory Mental Health Council. It also (at § 54.106(e)(2)) requires that applications be developed with projected operating budgets and asks for specific information on how amounts of grants being requested are determined.

(8) Stipulates (at § 54.107) certain minimum standards for the services described in section 201(b)(1) of the Act. Those services are—

—Inpatient services
—Emergency services
—Outpatient services
—Assistance to Courts and Other Public Agencies
—Followup care
—Consultation and Education services
—Day Care and Other Partial Hospitalization services
—Services for Children
—Services for the Elderly
—Half-way House services
—Alcoholism and Alcohol Abuse services
—Drug Abuse services.

This "Final Rule" imposes a limited number of standards for complying with these statutory requirements. Key examples are:

(a) Inpatient services must include initial diagnosis and evaluation.

(b) Professional emergency services must be available around the clock.

(c) Outpatient services must be available during evenings or weekends.

(9) Requires (at § 54.107(c)) that applicants disclose their procedures for filling governing body vacancies, and disclose certain information pertaining to potential conflicts of interest.

(10) Clarifies (at § 54.108) statutory requirements that awards under sections 203 and 204 of the Act are provisional in nature and subject to downward adjustment. At the end of each budget period, the amount of the award for that period is recomputed on the basis of actual, rather than projected, income, costs, and costs of operation and, for certain section 203 grants and all section 204 grants, any excess amount based on the recomputed grant award must be returned to the Federal Government. In addition, the term "income" is defined (at § 54.108(a)). (A separate Notice of Proposed Rulemaking proposing to expand the provisional award, downward adjustment, and settlement provisions of § 54.108 to include the remaining section 203 grants, and grants under sections 205 and 211 of the Act, immediately follows this "Final Rule" in the Federal Register.)

(11) Implements (at § 54.108(d)(2)) the 1978 statutory amendments permitting certain applicants (a) to carry over unexpended grant funds from the period of one grant to the period of the following one and (b) to retain, for the purposes specified in the Act (including the establishment of a financial reserve), the amount (up to a maximum of 5 percent) by which the total income of the center (or other entity) exceeds its costs of operation because its income was greater than expected.

Subpart B—Planning Grants

The "Final Rule" implements the statute and:

(1) Precludes (at § 54.202) awards to any applicant that would plan for a catchment area which has already been assisted through a staffing, operations, construction, or facilities assistance grant.

(2) Provides (at § 54.203) that applications must: include assurances of community involvement in the planning process and meet certain other administrative requirements.

There are no major changes from the corresponding provisions of the "Proposed Implementation."

Subpart C—Operations and Staffing

Grants for initial operation or staffing may, by statute, be awarded to any qualified applicant for up to eight years. The "Final Rule" implements the statute and:

(1) Implements (at § 54.302(a)(1)(iii)) the 1978 statutory amendment allowing inpatient, emergency, or half-way house services to be provided, where the circumstances warrant, outside the applicant's catchment area.

(2) Requires (at § 54.302(b)) the applicant to designate an overall director and separate individuals responsible for each of the following services: children, elderly, consultation and education, alcoholism and alcohol abuse, and drug abuse.

(3) Requires (at § 54.302(j)) applicants whose catchment area includes 2,500 or more residents whose primary language is other than English and whose English-speaking ability is limited to provide at least one staff member fluent in that primary language.

Subpart D—Consultation and Education

Consultation and education service grants may, by statute, be awarded to applicants which have been receiving operation or staffing grants for at least two years and to non-federally-funded applicants which meet the requirements of the Community Mental Health Centers Act except that they are not providing consultation and education services.

The "Final Rule" implements the statute and establishes certain other requirements. There are no major changes from the corresponding provisions of the "Proposed Implementation."

Subpart E—Conversion Grants

Up to two one-year conversion grants may, by statute, be awarded to entities initially receiving support under the pre-1975 statute, but not meeting the requirements for additional services imposed by the 1975 amendments to the Community Mental Health Centers Act. The purpose of these grants is to fund the cost of adding these additional services.

The "Final Rule" implements the statute and stipulates certain other minor requirements. There are no major changes from the corresponding provisions of the "Proposed Implementation."

Subpart F—Financial Distress

The Act provides that up to five one-year grants may be awarded to Community Mental Health Centers to support, in part, operations after Federal support would otherwise be ended (the Act limits operation and staffing grant support to eight years). Financial distress grants are designed to prevent a significant reduction in the types, levels,

or quality of services, as well as to enable centers to meet certain organizational requirements mandated by statute.

The "Final Rule" implements the statute and:

(1) Implements (at § 54.602(a)(3)) the 1978 statutory amendments making it possible for an entity whose initial staffing grant has concluded, but which continues to be supported (in part) by another such grant, to be eligible to apply for a financial distress grant.

(2) Requires (at § 54.602(b)) that applications be submitted no later than two years after the conclusion of Federal support under the Act or November 1, 1980. (whichever is later).

Inquiries: Parties having specific questions about the provisions of this part, the Community Mental Health Centers Act, or the program should direct their inquiries to the Director, Division of Alcoholism, Drug Abuse, and Mental Health, Public Health Service, in the regional office serving their locality. These are:

Region	Responsibility for States and areas	Address
I.....	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.	John F. Kennedy Federal Bldg., Room 1409, Boston, Massachusetts 02203.
II.....	New Jersey, New York, Puerto Rico, and the Virgin Islands.	26 Federal Plaza, Room 3310, New York, New York 10007.
III.....	Delaware, District of Columbia, Pennsylvania, Virginia, and West Virginia.	Post Office Box 13716, Room 11200, Philadelphia, Penna. 19101.
IV.....	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.	101 Marietta Tower, Room 1007, Atlanta, Georgia 30323.
V.....	Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.	300 South Wacker Drive, Room 3400 S.E., Chicago, Illinois 60606.
VI.....	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.	1200 Main Tower Building, Room 1860, Dallas, Texas 75202.
VII.....	Iowa, Kansas, Missouri, and Nebraska.	Federal Office Building, 601 East 12th Street, 5th Floor, Kansas City, Missouri 64106.
VIII.....	Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.	Federal Office Building, Room 1194, 1961 Stout Street, Denver, Colorado 80294.
IX.....	American Samoa, Arizona, California, Guam, Hawaii, Nevada, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.	Federal Office Building, 50 United Nations Plaza, Room 322, San Francisco, California 94102.
X.....	Alaska, Idaho, Oregon, and Washington.	Arcade Plaza, Mail Stop 825, 1321 Second Avenue, Seattle, Washington 98101.

Comment solicited: The provisions of Part 54 of Title 42, Code of Federal Regulations, established in this "Final Rule" consolidate the provisions of this part established by the "Interim Rule" of June 30, 1976 (appearing at 41 FR 26906) and those additional provisions in the "Proposed Implementation" of November 2, 1976 (appearing at 41 FR 48282).

In so doing, the Department has responded to over 100 public comments and made other changes as discussed in this preamble. While the provisions of this part are published as a "Final Rule" and are effective as such, the Department will consider additional public comments and, if warranted, propose changes in the regulations of this part. The Department specifically invites such comments on the following sections of the "Final Rule" added to provide regulatory direction consistent with the statutory changes enacted by Pub. L. 95-83 and the Community Mental Health Centers Extension Act of 1978 (Title I of Pub. L. 95-622):

(1) Section 54.102: Regarding definitions of "costs", "costs of operation" and "approved program."

(2) Section 54.106(c)(3): Regarding an applicant's status as an entity operated by a hospital or governmental agency.

(3) Section 54.106(e): Regarding operating budgets and determination of amounts of grants being sought.

(4) Section 54.106(f): Regarding review of an application by the governing body or advisory committee.

(5) Section 54.108: Regarding provisional nature of grants awarded under sections 203 and 204 of the Act, carryover of unexpended balances, and development of financial reserves.

(6) Section 54.302(a)(1)(iii): Regarding establishment of inpatient, emergency, or halfway house services outside an applicant's catchment area.

Public comment in response to this solicitation should be directed in writing to: Lindsley Williams, Director, Office of Program Development and Analysis, National Institute of Mental Health, 5600 Fishers Lane, Room 17-C-17, Rockville, Maryland 20857.

Note.—The Assistant Secretary for Health has determined that a regulatory analysis as required by Executive Order 12044 is not needed for these final regulations.

Accordingly, the Assistant Secretary for Health of the Department of Health and Human Services, with the approval of the Secretary of Health and Human Services, hereby revises Part 54 of Title 42, Code of Federal Regulations, as set forth below, effective September 1, 1980.

Dated: February 27, 1980.

Julius B. Richmond,

Assistant Secretary for Health and Surgeon General.

Approved: July 1, 1980.

Patricia Roberts Harris,

Secretary.

Effective September 1, 1980, with respect to activities conducted under grants made (and applications for grants submitted) after August 31, 1980, under the authority of the Community Mental Health Centers Act (except Part D thereof on Rape Prevention and Control) as amended by Pub. L. 95-622, Part 54 of 42 CFR is revised to read as follows:

PART 54—GRANTS FOR COMMUNITY MENTAL HEALTH CENTERS

Subpart A—General Provisions

Subpart B—Grants for Planning Community Mental Health Center Programs

Subpart C—Grants for Initial Operation or Staffing

Subpart D—Grants for Consultation and Education Services

Subpart E—Conversion Grants

Subpart F—Financial Distress Grants

Sec.

Subpart G—Facilities Assistance [Reserved]

Authority: Community Mental Health Centers Act, except Part D (42 U.S.C. 2689–2689p, 2689r–2689aa), as amended by title III of the Act of July 29, 1975 (Pub. L. 94–63, 89 Stat. 308–327, 329–333), section 308 of the Act of August 1, 1977 (Pub. L. 95–83, 91 Stat. 395–396), title I of the Act of November 9, 1978 (Pub. L. 95–622, 92 Stat. 3412–3420), and section 8 of the Act of July 10, 1979 (Pub. L. 96–32, 93 Stat. 85).

(Catalog of Federal Domestic Assistance Program Number 13.295: Community Mental Health Centers—Comprehensive Services Support)

Subpart A—General Provisions

§ 54.101 To whom do these regulations apply?

This subpart applies in the case of all grants and applications for grants under, and other aspects of the administration of, the Community Mental Health Centers Act (42 U.S.C. 2689 *et seq.*) except part D thereof (Rape Prevention and Control).

§ 54.102 Definitions.

For purposes of this part, unless the context otherwise requires:

"Act" means the Community Mental Health Centers Act (42 U.S.C. 2689 *et seq.*) other than part D thereof.

"Approved program" means all the services, activities, or facilities (or combinations thereof), whether provided by the applicant or by others through contractual agreements with the applicant (or any combination thereof), which—

(a) Meet the requirements of the Act and provisions of this part;

(b) Are described by the applicant, in accordance with the provisions of this part, in applying for a grant under the Act; and

(c) Are approved by the Secretary through the award of a grant under the Act.

"Catchment area" means a defined geographic area established or designated under the State plan of the State of which it is a part (or in the case of an interstate area, the State plans of the States of which it is a part) for purposes of determining the area, and the population thereof, to be served by a community mental health center.

"Community mental health center" has, except for purposes of grants and applications for grants under part B of the Act, the meaning ascribed to it by section 201 of the Act. "Other entity", when used in the expression "community mental health center (or other entity)", refers to a legal entity that would be a community mental health center except that it does not meet all of the requirements of section 201 of the Act.

"Costs of operations", as applied to any grant under section 203, 205, or 211 of the Act, and "costs", as applied to any grant under section 202 or 204 of the Act, mean the total of the expenses or charges (irrespective of the source of revenue for the payment of these expenses or charges) incurred either directly by the entity to which a grant is made (under any of these sections) or by other providers through contractual arrangements with the entity, but only if the expense or charge is allocable to the approved program, is allowable, and is otherwise in accord with—

(a) The provisions of section 54.109 of this part and the provisions of 45 CFR Part 74 as made applicable by that section; and

(b) The provisions of published grants policy of the Public Health Service.

"National Advisory Mental Health Council" has the meaning ascribed to it by paragraph (4) of section 235 of the Act.

"Nonprofit", as applied to any entity, means a corporation or association, or an entity which is owned and operated by one or more corporations or associations, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual.

"Population", with respect to any State or part of a State, means the population thereof as determined by the Secretary on the basis of the latest figures certified by the Department of Commerce.

"Regulations" means regulations promulgated by the Secretary.

"Secretary" means the Secretary of Health and Human Services or the Secretary's delegate.

"State" and "State agency" have the meaning ascribed to them by paragraphs (1) and (2), respectively, of section 235 of the Act.

"State plan" means the plan of the State which is submitted to the Secretary for approval under section 237 of the Act.

§ 54.103 How are urban or rural poverty areas designated?

(a) *Purpose.* This section establishes the procedure for designating catchment areas in each State as urban or rural poverty areas (except for purposes of grants under section 203(e) of the Act).

(b) *Definitions.* For purposes of this section:

(1) "Population" does not include any of the groups excluded by the Department of Commerce for purposes of determining persons having incomes below the poverty cutoffs (for the 1970 Census, the groups excluded were "inmates of institutions, members of the Armed Forces living in barracks, college students in dormitories, and unrelated individuals under 14 years").

(2) "Poverty cutoffs" means (i) in the case of the 50 States, the District of Columbia, and Puerto Rico, the annual income levels established by the Department of Commerce for purposes of determining poverty status for various members of the population, and (ii) in the case of American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and Virgin Islands, the annual income levels which the Secretary determines are as comparable as possible in the light of the data available therefrom, to those annual income levels established by the Department of Commerce for the 50 States, the District of Columbia, and Puerto Rico.

(3) "Subarea" means that part of a catchment area for which data are available that are satisfactory to the Secretary for purposes of determining its percent of population having incomes below the poverty cutoffs.

(4) "Division of a subarea" means that part of a subarea for which (i) the composition and boundaries are based on economic, geographical, and other criteria which the Secretary finds consistent with this section and the provisions of the Act relating to designation of urban or rural poverty areas and (ii) data are available that are satisfactory to the Secretary for purposes of determining its population and whether at least 15 percent thereof have incomes below the poverty cutoffs.

(c) *Eligibility of Areas.* (1) Any catchment area is eligible to be designated as an urban or rural poverty area if—

(i) At least 10 percent of the population of the catchment area have incomes below the poverty cutoffs,

(ii) The catchment area contains at least one subarea with at least 15 percent of its population below the poverty cutoffs, and

(iii) The sum of the populations of all the subareas in the catchment area

meeting the test in paragraph (c)(1)(ii) of this section equals at least 35 percent of the population of the catchment area.

(2) Any catchment area which is not eligible for designation as an urban or rural poverty area under the provisions of paragraph (c)(1) of this section may nevertheless be eligible for that designation if—

(i) At least 13.7 percent of the population of the catchment area have incomes below the poverty cutoffs (13.7 percent is the percent of persons in the 50 States and the District of Columbia with incomes below the poverty cutoffs as determined by the 1970 decennial census);

(ii) The catchment area contains at least one division of a subarea with at least 15 percent of its population below the poverty cutoffs;

(iii) The sum of the populations of all subareas and divisions of subareas in the catchment area meeting the test in paragraph (c)(1)(ii) and paragraph (c)(2)(ii) of this section respectively, of this section equals at least 35 percent of the population of the catchment area; and

(iv) The applicant seeking designation of a catchment area under paragraph (c)(2) of this section has informed the State agency of the results or expected results of applying the method for establishing the qualifying division(s) of a subarea, if after reasonable notice by the applicant, the State agency has decided not to participate in the development of—

(A) The information submitted to the Secretary as part of any application for a grant under the Act which would establish the catchment area's eligibility under paragraph (c)(2) of this section, and

(B) The method of establishing the qualifying division(s) of the subarea.

(3) Any catchment area which is not eligible for designation as an urban or rural poverty area under the provisions of paragraph (c)(1) or (2) of this section may nevertheless be eligible for that designation, but only for purposes of an operations grant under section 203(a) of this act, if—

(i) The catchment area was designated by the Secretary as an urban or rural poverty area under the Mental Retardation and Community Mental Health Centers Construction Act of 1963 (as in effect prior to July 29, 1975) and regulations thereunder, and there is in the catchment area (or an area which the Secretary determines to be substantially the same as that catchment area) an entity which received a staffing grant under section 220 of the Act as in effect before July 29, 1975,

(ii) The catchment area contains at least one subarea which the Secretary finds appropriate to characterize as a subarea of poverty because of the percent of persons having incomes below the poverty cutoffs and one or more other factors (such as rates of unemployment and welfare caseloads) which are consistent with this section and the provisions of the Act relating to designation of urban or rural poverty areas, and

(iii) The sum of the populations of all the subareas in the catchment area meeting the test in paragraph (c)(3)(ii) of this section equals at least 35 percent of the population of the catchment area.

(4) Except as provided in paragraph (c)(5) of this section, in applying paragraph (c)(1), (2) or (3) of this section with respect to grants under the Act to be made during a fiscal year—

(i) The population of a catchment area or subarea, and the percent thereof with incomes below the poverty cutoffs, will be determined by the use of data from the 1970 decennial census and by the use of the poverty cutoffs used in that census (poverty cutoffs used in the 1970 census are set forth in Appendix A to this part); and

(ii) The population of a division of a subarea, and whether at least 15 percent thereof have incomes below the poverty cutoffs, will be determined by use of data and criteria which the Secretary finds consistent with this section and the provisions of the Act relating to designation of urban or rural poverty areas.

(5) At the request of the State agency, data on the population and percentages of that population with incomes below the poverty cutoffs for catchment areas, subareas, and divisions of subareas in that State for a period which is more recent than the period covered by the 1970 decennial census will (in applying paragraph (c)(1), (2) or (3) of this section) be substituted for that data if the more recent data—

(i) Are furnished to the Secretary by the State agency and (A) were prepared by the Department of Commerce, or (B) in the case of the 50 States, the District of Columbia, and Puerto Rico, are determined by the Secretary to be based on the criteria used by the Department of Commerce in the 1970 decennial census, or (C) in the case of American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands, are determined by the Secretary to be comparable to those criteria;

(ii) Apply the poverty cutoffs corresponding to the period covered by the more recently collected data; and

(iii) Are for all catchment areas and subareas in the State.

(d) *Designation of Areas.* (1) Upon approval of an application for an operations grant under section 203(a) of the Act, the Secretary will (but only for purposes of and for the period of that grant) designate a catchment area as an urban or rural poverty area if the application demonstrates to the satisfaction of the Secretary that—

(i) The catchment area is eligible for that designation under paragraph (c) of this section;

(ii) The approved program will to a substantial extent serve the population of the one or more subareas or divisions of subareas which qualifies that catchment area under paragraph (c) of this section; and

(iii) The amount of the grant would be affected by that designation.

(2) Upon approval of an application for a planning grant under section 202 of the Act, the Secretary will (but only for purposes of and for the period of that grant) designate a catchment area as an urban or rural poverty area if the application demonstrates to the satisfaction of the Secretary that—

(i) The catchment area is eligible for that designation under paragraph (c) of this section; and

(ii) The program to be designed or developed with the aid of the grant will, within a period of time prescribed by the Secretary, to a substantial extent serve the population of the one or more subareas or divisions of subareas which qualifies that catchment area under paragraph (c) of this section.

§ 54.104 What State plan requirements apply?

A State plan will be approved under section 237 of the Act for a fiscal year if it complies with the following requirements:

(a) *Form, manner, and frequency of submittal.* (1) The State plan must be submitted in the form, manner, and frequency prescribed by the Secretary except that those portions of the plan containing the data needed to meet the requirements of paragraphs (b) and (c) of this section only need to be updated once every five years unless the State desires to do so more frequently.

(2) The State plan may, if each applicable statutory and regulatory requirement is met, be combined with either (i) the State plan submitted under section 303(a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4573(a)) or (ii) the State plan submitted under section 409(e) of the Drug Abuse

Office and Treatment Act of 1972 (21 U.S.C. 1176(e)), or both.

(3) Any State plan approved under section 237 of the Act which meets the requirements of section 314(g)(2)(D)(iv) of the Public Health Service Act may be incorporated by reference in the application of that State under section 314(g)(2)(D)(iv) in lieu of establishing a separate State plan.

(b) *Catchment areas.* (1) The State plan must divide the State into catchment areas. The population of a catchment area may not be less than 75,000 nor more than 200,000 except to the extent permitted by the Secretary because the Secretary finds the action will assist in the better provision of the services described in section 201(b)(1) of the Act in the area.

(2) The State plan must provide that, after such a division has been made, if any variation in the population of an area reduces it below the minimum or increases it above the maximum permitted by paragraph (b)(1) of this section by more than 25 percent, the State agency will submit a modification of the plan revising its catchment areas appropriately, unless the Secretary determines, at the request of the State agency, that such a revision is unnecessary or undesirable in carrying out the purposes of the Act.

(3) The determination of catchment areas under the State plan must comply both with this paragraph (b) and with section 238 of the Act.

(4) The preceding provisions of this paragraph (b) do not prevent formation of an interstate catchment area consisting of areas in two or more States with State plans approved under section 237 of the Act. In the case of an interstate catchment area, the requirements of the preceding provisions must be met by that area, but with the portion of the area in each State being included in the State plan of that State and with each plan being appropriately modified in case of a reduction or increase in population of the area which would require a modification in the case of noninterstate area.

(c) *Determination of relative need.* The State plan must set forth the relative need of each catchment area in the State for community mental health centers and their services, as indicated by—

(1) The relative need of the population of the area for the services described in section 201(b)(1) of the Act, determined after consideration of all relevant factors, including particularly—

(i) The demographic, economic, and social characteristics of each area, including the relative size of population groups considered to be more likely than others to have a need for the services;

(ii) The extent of alcoholism, drug abuse, suicide, crime, delinquency, and other social or health problems in each area; and

(iii) the level and appropriateness of the utilization of public mental institutions by the residents of each area and the need for screening residents of each area admitted to, and for follow-up services for residents of each area discharged from, public mental institutions therein; and

(2) The types and the relative availability and accessibility of resources for providing the services described in section 201(b)(1) of the Act, as well as of other health or social services facilities and personnel.

(d) *Statistical procedures.* The State plan must describe the statistical procedures used in the determination of relative need under paragraph (c) of this section and must identify the various factors applied in that determination and the relative weight assigned to each factor.

(e) *Public comment on and access to the State plan.* The State plan and any modification of it must contain or be accompanied by—

(1) Documentation and other evidence showing that, in the process of its development and before it was submitted to the Secretary, a reasonable opportunity was afforded to interested agencies, organizations, and individuals to present their views and to comment to the State agency upon the proposed plan;

(2) Assurances satisfactory to the Secretary that, after its submission to and approval by the Secretary, a reasonable opportunity will be afforded to interested agencies, organizations, and individuals to comment to the State agency upon the administration of the plan proposed and any modification of the plan;

(3) A summary of those views and comments and the account, if any, which was taken of such views and comments; and

(4) A description of the various places in the State, which must have been readily accessible to the public, at which the proposed plan or modification thereof was made available and of the various places (also readily accessible) in the State at which the plan, including any modifications, continues to be available.

(f) *Compliance with statutory requirements.* The State plan must be submitted in the manner and detail prescribed by the Secretary and include—

(1) Evidence satisfactory to the Secretary that—

(i) The plan complies with section 237(a)(1)(D) of the Act (relating to establishment and maintenance of personnel standards on a merit basis) and establishes personnel standards meeting those requirements of the Office of Personnel Management (formerly Civil Service Commission) cited by the Secretary in guidelines or other informational materials;

(ii) The plan complies with section 237(a)(2)(A) of the Act (relating to consistency of the plan with the mental health provisions of the State health plan prepared in accordance with section 1524(c)(2), or approved under section 314(a), of the Public Health Service Act);

(iii) The program for community mental health centers set forth under section 237(a)(2)(B) of the Act—

(A) Has been developed, insofar as a catchment area which is part of an interstate area is concerned, after consultation with the other State or States concerned, and

(B) Has been coordinated with (*1*) the planning of city, metropolitan area, or interstate planning agencies to achieve consistency between the planning of community mental health centers and other health or social services planning, and (*2*) the planning for alcoholism or drug abuse treatment or rehabilitation programs;

(2) Information as to how the plan will comply with section 237(a)(2)(D) of the Act (relating to emphasis on outpatient services);

(3) Assurances satisfactory to the Secretary that the State advisory council designated pursuant to section 237(a)(1)(A) of the Act—

(i) Will meet as often as necessary to assure fulfillment of its function of consultation with the State agency, but not less than once every 90 days, with the dates of the meetings and a summary of the recommendations and other actions of the council resulting from those meetings being included in appropriate reports made to the Secretary by the State agency under the Act and these regulations;

(ii) Will be selected through a process, described in the plan, meeting the requirements of section 237(a)(1)(A) of the Act and assuring representation of consumers and minority groups which the Secretary determines to be adequate for purposes of the Act (however, for purposes of determining that representation, and for purposes of section 237(a)(1)(A) of the Act, an individual will not by reason of membership on the governing board or advisory committee of a community

mental health center be considered a provider); and

(iii) Will have a reasonable opportunity to review and comment on the State plan and any amendments thereof;

(4) Provision for determining the priority of projects in the State under part C of the Act (relating to facilities assistance) in accordance with the relative need therefor, as determined under the State plan and this part 54; and

(5) Provision for adequate community mental health centers for people residing in the State, including adequate community mental health centers to furnish needed services for persons unable to pay for them.

§ 54.105 What capacity and responsibility must the State agency show?

The State plan required by § 54.104 must be accompanied by—

(a) Evidence satisfactory to the Secretary that the State agency has the legal authority, and the capacity and capability, to carry out its functions under the State plan;

(b) Assurances satisfactory to the Secretary that—

(1) The periodic review of catchment areas required by section 238 of the Act will be made;

(2) When the State agency submits comments under section 206(d) (or the last sentence of section 212(b)) of the Act on any application the State agency will at the same time or before send a copy of the comments to the applicant and to the appropriate Health Systems Agency or Agencies (designated under Title XV of the Public Health Service Act); and

(3) The State agency will assist in identifying problems which community mental health centers in the State may have in meeting the requirements of section 206(c)(1) (I), (J), (K)(ii)(II), and (L)(i) of the Act and will, through working with other appropriate State agencies and otherwise assist the centers in meeting those problems;

(c) A description of how, and how often, the review referred to in paragraph (b)(1) of this section will be made and how the assistance referred to in paragraph (b)(3) of this section will be provided;

(d) As specified by the Secretary in guidelines or other informational materials, evidence that the State agency has, on a timely basis, complied with each Federal statute, regulation, or order requiring the submission of the State plan to others for their review, comment, or approval; and

(e) Identification of any State, local, or other agency to which the State requires each applicant for a grant under the Act to supply a copy of its application.

§ 54.106 How is application made for a grant under the Community Mental Health Centers Act?

(a) *Form and manner of submission.* Each application for a grant under the Act must be submitted in the form and manner, at the time or times, and contain the information (including materials accompanying the application) prescribed by the Secretary.

(b) *Incorporation by reference and simplified applications.* Subject to the conditions prescribed by the Secretary, an application for a grant under any section of the Act may comply with any requirement of the Act or regulations relating to that application (other than those requiring the submission of assurances by—

(1) Incorporating by reference pertinent portions of an application for a grant filed, not more than 3 years earlier, by the same applicant under the same or any other section of the Act; and

(2) Indicating changes in or additions to the pertinent portions of an application for a grant filed, not more than 3 years earlier, by the same applicant under the same or any other section of the Act.

(c) *Evidence of applicant's authority and capacity.* Each application for a grant under the Act must include evidence satisfactory to the Secretary of—

(1) The applicant's legal authority and the legal authority of any unit or entity which is, or, upon the award of a grant under the Act would be, assigned responsibility for carrying out any portion of the approved program;

(2) The applicant's capacity and capability, and that of any such unit or entity, to carry out the approved program; and

(3) Except for applicants for the continuation of children's staffing grants (more fully described in § 54.302(o)), if the applicant wishes to appoint an advisory committee in lieu of a governing body (under section 201(c) of the Act) to advise the applicant with respect to its operation the applicant's legal status as an entity operated by a governmental agency or hospital.

(d) *Information on catchment area, program objectives, and expected benefits.* Each application for a grant under the Act must contain—

(1) A narrative and statistical description of the population, geographical characteristics, and other general characteristics, of the applicant's catchment area;

(2) The general objectives of the applicant's proposed program;

(3) A description of the need of the population of the area for each of the services to be provided under the program as indicated by the entity's assessment of those population groups having special needs for the services and including the reasons for any differences between that description and the need or needs reflected in (i) the State's plan approved under the Act, (ii) the plans established by any fully designated Health Systems Agency planning for the applicant's catchment area, and (iii) any plans prepared and approved by the Statewide health Coordinating Council (designated under Title XV of the Public Health Service Act); and

(4) The general results or benefits expected to be derived from the assistance provided by the grant.

(e) *Information on operating budget and how amount of requested grant is determined.* (1) Each application for a grant under the Act must contain a projected operating budget and the amount of the grant the applicant is requesting both of which cover (i) the year for which assistance is requested under the Act in this application and (ii) each year subsequent thereto for which the applicant would be elgible to apply for a grant under the same section of the Act as that under which this application is filed.

(2) Each application must also contain an explanation of how the applicant determined the projected operating budget and the amount of the grant requested for each year, including an explanation of the portion (if any) included to take account of underestimates of expenditures or overestimates of receipts of fees and other Federal, State, local, and other funds.

(3) Each application for a grant under section 203, 204, 205, or 211 of the Act, other than the initial application for a grant, must also contain an explanation of any differences between (i) the amount of the grant the applicant is requesting under paragraph (e)(1)(i) of this section and (ii) the amount of the grant the applicant projected it would apply for with respect to the corresponding grant year (under paragraph (e)(1)(ii) of this section) in its most recent application for a grant under the same section which was approved and funded upon the recommendation of the National Advisory Mental Health Council.

(f) *Evidence of approval of application and compliance with Act, regulations, and other terms.* (1) Each application for a grant under the Act, other than an application for a planning grant under section 202 or an application

for the continuation of a children's staffing grant (more fully described in § 54.302(o)), must contain evidence which demonstrates to the satisfaction of the Secretary that the application was—

(i) Reviewed and approved by the applicant's governing body, or.

(ii) Reviewed and approved by the applicant's advisory committee established in lieu of a governing body in accordance with section 201(c) of the Act, or if disapproved by that committee, that this disapproval was unreasonable.

(2) Each application for a grant under the Act must contain or be accompanied by information which demonstrates to the satisfaction of the Secretary (i) how the applicant plans to carry out assurances required under the Act or regulations and (ii) that the applicant has met the requirements of section 206(c)(2)(B)(iii) of the Act.

(3) In addition, each application for a grant under the Act must, as the Secretary may prescribe, contain or be accompanied by information, evidence, and documentation which demonstrates that at the time the application is filed, the applicant is complying with and will continue to comply with the requirements of the Act and regulations, and with grant terms and conditions, applicable by reason of the applicant's current or prior receipt of a grant under the Act (or the Act as in effect before July 29, 1975).

(g) *Evidence of submission of application to State, local, and other agencies.* (1) Each application for a grant under the Act must contain or be accompanied by evidence satisfactory to the Secretary that the application and materials accompanying it have been submitted to the State agency.

(2) As specified by the Secretary in instructions, guidelines, or other informational materials, each application for a grant under the Act must also contain or be accompanied by evidence that the applicant has, on a timely basis, complied with each Federal statute, regulation, or order requiring the submission of the application (or the application and materials accompanying it) to others for their review, comment, or approval. These requirements include those of title XV of the Public Health Service Act and the implementing regulations, 42 CFR Part 122, and Part I of Circular A-95 of the Office of Management and Budget.

(3) Each application for a grant under the Act must contain evidence satisfactory to the Secretary that the application has been submitted to those agencies identified by the State agency under § 54.105(e).

§ 54.107 What are some general requirements that apply to community mental health centers grants?

(a) *Requirements under section 201(b)(1) of the Act.* The services to be provided under section 201(b)(1) of the Act include the following:

(1) *Inpatient services.* The inpatient services required under section 201(b)(1)(A)(i) of the Act must, for persons needing 24 hour care, include short-term evaluation, or short-term evaluation and short-term intensive treatment, in a manner facilitating their return to the community as expeditiously as their conditions and appropriate care permit.

(2) *Emergency services.* The emergency services required under section 201(b)(1)(A)(i) of the Act must be available by telephone and in face-to-face contact with professional staff 24 hours each day and must include—

(i) Expeditious provision, for persons needing such services in times of emotional crisis or other emergency related to their mental health, alcoholism or alcohol abuse, or drug abuse (this applies irrespective of whether the Secretary has waived the requirements of a service program under section 201(b)(1)(B)(v) of the Act for the catchment area) of—

(A) Initial evaluation, and

(B) Initial treatment with respect to that emotional crisis or other emergency, or, if beyond the treatment capabilities of the community mental health center (or other entity) and its satellite centers (the combined treatment capabilities of which must include at least the services described in section 201(b)(1) of the Act and in these regulations), referral to a facility with appropriate capabilities;

(ii) Arrangements for appropriate post-emergency services by or through the community mental health center (or other entity);

(iii) Arrangements for following-up those persons who are so referred or for whom arrangements for post-emergency services are made; and

(iv) Provision for the publication, throughout the catchment area, of information regarding the emergency services that are available, including their location and telephone number.

(3) *Outpatient services.* The outpatient services required under section 201(b)(1)(A)(i) of the Act must include all appropriate services of the community mental health center (or other entity), including individual, group, and family services, provided on a regularly scheduled outpatient basis which includes hours during evenings or weekends (or both).

(4) *Assistance to public agencies.* The assistance to courts and other public agencies in the screening and provision of treatment required under section 201(b)(1)(A)(ii) of the Act must include provision of information to these agencies on the availability of that assistance to them, as well as provision, when requested by a court or other public agency, of a comprehensive assessment of the need for inpatient treatment of any person being considered by the court or agency for possible referral to a State mental health facility for treatment, including consideration of the availability and suitability of less restrictive alternative services. This assistance is not required to be provided free of charge.

(5) *Followup care.* The followup care required under section 201(b)(1)(A)(iii) of the Act must, for residents of the catchment area who have been discharged from inpatient treatment at a mental health facility in the area or any State mental health facility generally serving (as determined by the Secretary) residents of the catchment area, directly or through liaison services—

(i) Provide for establishing (to the extent consistent with the discharging facility's procedures regarding confidentiality of patient records) and maintaining contact with the residents;

(ii) Assure access by the residents to further services of the community mental health center (or other entity), if and when needed; and

(iii) Provide each such facility with information regarding the location and services of the center (or other entity).

(6) *Consultation and education services.* [Reserved]

(7) *Day care and other partial hospitalization.* The day care and other partial hospitalization services required under section 201(b)(1)(B)(i) of the Act must, for persons needing more than outpatient services but less than inpatient services, include the day care and other partial hospitalization services, including partial day care and care at other times than during the daytime, as the Secretary may determine are needed by those persons. These services may, as appropriate, be provided as part of other services, e.g., as part of halfway house services.

(8) *Specialized services for children.* The program of specialized services for children required under section 201(b)(1)(B)(ii) of the Act must include—

(i) The full range of diagnostic, treatment, liaison, and followup services required by the Act and these regulations, and any other service (except a service which is inappropriate for children) available at the community mental health center (or other entity),

tailored to the needs of children, with particular attention to their needs at various stages of their development; and

(ii) Provision for making the services readily accessible to children in the light of their special problems in obtaining the services, and, if not otherwise readily accessible, provision of services at locations outside the facilities of the center (or other entity) or through other agencies.

(9) *Specialized services for the elderly.* The program of specialized services for the elderly required under section 201(b)(1)(B)(iii) of the Act must include—

(i) The full range of diagnostic, treatment, liaison, and followup services required under the Act and these regulations, and any other service (except a service which is inappropriate for the elderly) available at the community mental health center (or other entity), tailored to the needs of the elderly; and

(ii) Provision for making the services readily accessible to the elderly in the light of their special problems in obtaining the services, and, if not otherwise readily accessible, provisions of services at locations outside the facilities of the center (or other entity) or through other agencies.

(10) *Transitional half-way house services.* The program of transitional half-way house services required under section 201(b)(1)(B)(iv) of the Act must include sheltered community living arrangements designed (i) as an alternative to inpatient services and (ii) to facilitate, for residents of the catchment area who have received inpatient services, their gradual return to the community.

(11) *Alcoholism and alcohol abuse services.* The program for prevention and treatment of alcoholism and alcohol abuse and for the rehabilitation of alcohol abusers and alcoholics required under section 201(b)(1)(B)(v) of the Act (unless waived by the Secretary thereunder) must include, in addition to the special services directed toward their alcohol abuse or alcoholism or the prevention thereof, the full range of diagnostic, treatment, liaison, and followup services required under the Act and these regulations, and any other service available at the community mental health center (or other entity), tailored to the specific needs of this group of persons.

(12) *Drug abuse services.* The program for prevention and treatment of drug addiction and drug abuse and for the rehabilitation of drug addicts, drug abusers, and other persons with drug dependency problems required under section 201(b)(1)(B)(v) of the Act (unless waived by the Secretary thereunder) must include, in addition to the special services directed toward their drug addiction, drug abuse, or drug dependency or the prevention thereof, the full range of diagnostic, treatment, liaison, and followup services required under the Act and these regulations, and any other service available at the community mental health center (or other entity), tailored to the specific needs of this group of persons.

(13) *Liaison and diagnostic services.* The services described in section 201(b)(1) of the Act must include, with respect to a community mental health center (or other entity), the provision of—

(i) Liaison services between the center (or other entity) and other agencies which regularly deal with its patients (and their families in or near the catchment area), with a view to promoting coordination with and more ready access to other needed health and social services, and

(ii) Diagnostic services which provide assessments of the nature of the condition of persons seeking services at the center (or other entity) and which include, as appropriate, physical and nutritional assessments by or under the direction of a physician.

(b) *Staff requirements.* For purposes of section 201(b) and other provisions of the Act, a community mental health center (or other entity) must have staff (1) who are qualified by training or experience to perform their duties and responsibilities to provide the services and otherwise carry out the approved program of the center (or other entity) competently, efficiently, and effectively, and (2) whose qualifications are maintained through appropriate training on an in-service or other basis.

(c) *Requirement under section 201(c) of the Act for a governing body or Advisory Committee.* An application for a grant under the Act by a community mental health center (or other entity) to which the requirements for a governing body or advisory committee under section 201(c)(1) of the Act are applicable must—

(1) Describe the functions and responsibilities of the body or committee, the number of its members and the proportion of provider (as defined in section 201(c)(2) of the Act) and other members, the durations of their membership, the method of their selection for membership, and the method of filling (in a manner complying with the Act) vacancies occuring in that membership;

(2) Describe (i) the relationships between (A) the body or committee, and each of its members, and (B) the director and staff of the center (or other entity), the professional advisory board required under section 201(d)(3) of the Act, any larger agency or organization of which the center (or other entity) is a part, and any agency or program with which the center (or other entity) is associated or has arrangements for the provision of services under the Act, and (ii) the procedures which will be followed to prevent any conflict of interest which may result from those associations or arrangements;

(3) Describe, in the case of a governing body which is not composed entirely of residents of the center's (or other entity's) catchment area, the reasons it was not practicable for the body to be so composed and the steps the center (or other entity) plans to take in an effort to achieve that composition; and

(4) Describe how the members of the body or committee, as a group, represent the residents of the center's (or other entity's) catchment area as required by section 201(c)(1) of the Act.

(d) *Requirements under section 201(d) of the Act.*—(1) *Quality Assurance Program.* The quality assurance program required to be established by a community mental health center (or other entity) under section 201(d)(1) of the Act must include utilization and peer review systems that, among other things, provide for the completion of at least two evaluation-of-care studies each year. The operation of the program must be the responsibility of a committee (or committees), the composition of which will assure representation of all disciplines on the staff of the center (or other entity) involved to a substantial extent in the delivery of services required under section 201(b)(1) of the Act or any other service provided under the center's (or other entity's) approved program of services. The quality assurance program must be described in writing; the center (or other entity) must provide for reviewing the quality assurance program not less than annually and for revising the written description as changes in that program are made. The description must be available for public examination and must include a description of—

(i) The responsibilities and composition of the committee (or committees) established under the program and the relationship of the committee (or committees) to the governing body, director, and clinical staff of the center (or other entity);

(ii) The procedures to be followed in the review systems established under the program;

(iii) The manner in which the center (or other entity) is applying or proposes

to apply the standards and criteria utilized in the review systems; or, if such criteria and standards have not already been developed, the procedure proposed for developing them;

(iv) The procedure to assure dissemination of the findings (with appropriate safeguards for maintaining confidentiality of the identity of patients, staff, or other providers of services) of the committee (or committees) to the center's (or other entity's) governing body, director, and staff, and to other bodies and persons as the center (or other entity) considers appropriate; and

(v) Other aspects of the quality assurance program prescribed by the Secretary.

(2) *Integrated medical records system.* The integrated medical records system required under section 201(d)(2) of the Act must include an individual record for each patient receiving services. This record must include all charts, a drug use profile, an individualized treatment plan, and other appropriate data; and the record must be indexed so as to be retrievable by use of, among other things, the patient's name. The system, which must include appropriate provision for maintaining the confidentiality of the individual records, must be described in writing; and that description must be available for public examination. This requirement for maintaining confidentiality does not prevent disclosure to the patient; nor does it in any way impede or impair the Secretary's authority to secure any information needed for purposes of carrying out Federal responsibilities under the Act and regulations. See also 42 CFR Part 2 relating to Confidentiality of Alcohol and Drug Abuse Patient Records which imposes specific confidentiality requirements on recipients of Federal funds providing alcohol or drug abuse services.

(3) *Professional Advisory Board.* (i) The professional advisory board required to be established by a community mental health center (or other entity) under section 201(d)(3) of the Act must include representation from all disciplines of the center (or other entity) involved to a substantial extent in the delivery of services required under section 201(b)(1) of the Act or any other services provided under the approved program of the center (or other entity).

(ii) The responsibilities of the professional advisory board must include the advising of—

(A) The governing body of the community mental health center (or other entity), or

(B) In the case of any center (or other entity) to which section 201(c)(1)(B) of the Act is applicable, the governmental agency or hospital operating the center (or other entity) and the advisory committee advising that agency or hospital.

(iii) The advice provided by the professional advisory board under paragraph (d)(3) of this section may be provided either directly or through the director of the community mental health center (or other entity); however, if the advice of the professional advisory board is provided through the director, provision must be made for the forwarding of the advice to the governing body of the center (or other entity), or the governmental agency or hospital operating the center (or other entity) and the advisory committee advising the agency or hospital, whichever applies.

(e) *Budget, statistical, and other information, and costs of evaluation, under section 206 of the Act.* (1) The overall plan and budget provided, and the statistical and other information developed, compiled, evaluated, and reported, as required under section 206(c)(1)(A) of the Act, must be reported as the Secretary prescribes.

(2) The cost of the operation, maintenance, or ongoing modification of any computer-based information system used by a community mental health center (or other entity) may not be included among the costs of the program of continuing evaluation (for which an amount must be obligated under section 206(c)(4) of the Act) of (i) the effectiveness of the approved program of services of the center (or other entity) in serving the needs of the residents of the catchment area, and (ii) the quality of these services. However, this does not prevent the inclusion, as part of the cost of the program of continuing evaluation, of the costs of the initial development of a computer-based information system for use by the community mental health center (or other entity) or the costs of an initial modification of an existing computer-based information system if the initial development or modification is directly related to the program of continuing evaluation. Nor does this prevent the inclusion of the costs of the operation, maintenance, or ongoing modification of any computer-based information system as "costs of operation" of the center (or other entity) for which grants may be made under the Act.

§ 54.108 How is the grant awarded, its amount determined, and a final accounting made?

(a) *Definition.* For purposes of this section, the term "income" means the total of the following to the extent each is legally available to support the approved program—

(1) State, local, and other funds, whether from public or private sources;

(2) Contributions, whether cash, property, in-kind or otherwise;

(3) Fees, premiums, and third-party reimbursements, such as those made under Title XVIII, XIX, or XX of the Social Security Act; and

(4) Other general program revenue.

This definition of "income" includes both earned and unearned revenues from State and local appropriations, contributions, and fees for service; it is, therefore, broader than the definition of the term "program income" in 45 CFR Part 74.

(b) *General.* (1) The notice of grant award specifies how long HHS intends to support the project without requiring the project to recompete for funds. This period, called the project period, will usually be for one to eight years.

(2) Generally the grant will initially be for one year and subsequent continuation awards will also be for one year at a time. A grantee must submit a separate application to have the support continued for each subsequent year. Decisions regarding continuation awards and the funding level of such awards will be made after consideration of such factors as the grantee's progress and management practices, and the availability of funds. In all cases, continuation awards require a determination by HHS that continued funding is in the best interest of the government.

(3) Neither the approval of any application nor the award of any grant commits or obligates the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved application or portion of any approved application.

(4) The amount awarded under section 203 or 204 of the Act is provisional and is subject to downward adjustment as provided in paragraphs (c) and (d) of this section. The award of any provisional amount constitutes an obligation of the Federal funds which are available for that purpose on the date of the award.

(c) *Provisional grant award.* The amount of any grant award under section 203 or 204 of the Act which is computed at the time of the grant award on the basis of projected income, and projected costs or projected costs of

operation (whichever is applicable), is provisional and will be recomputed (and adjusted downward as required) after the conclusion of the budget period by the Secretary as follows:

(1) For sections 203(a) or 203(e) of the Act, the amount of the operating deficit referred to in sections 203(c) and 203(e)(1) of the Act, respectively, will be recomputed on the basis of actual, rather than projected, amounts.

(2) For section 204 of the Act, the amounts referred to in section 204(b) of the Act will be recomputed on the basis of actual, rather than projected, amounts.

(d) *Settlement and accounting.* (1) After the end of each budget period of each grant under section 202, 203, 204, 205, or 211 of the Act, the grantee must:

(i) Within 90 days provide the Secretary with an accounting (subject to audit by the Secretary) of all income, funds received under the Act, and costs or costs of operation (whichever is applicable), of the approved program.

(ii) Except as permitted under paragraph (d)(2) (i) and (ii) of this section, return to the Federal Government in the manner directed by the Secretary—

(A) For each section 203 grant awarded to an entity eligible to receive a grant under the same section of the Act in the succeeding year, any amount by which the amount of the grant awarded provisionally under paragraph (c) of this section exceeds the amount of that grant as recomputed under paragraph (c)(1) of this section where that excess is generated because the entity's total income for the budget period is greater than projected;

(B) For each section 204 grant, any amount by which the amount of the grant awarded provisionally under paragraph (c) of this section exceeds the amount of that grant as recomputed under paragraph (c)(2) of this section;

(C) For each grant awarded under section 202, 203, 205, or 211 of the Act, any amount which remains unobligated; and

(D) For each grant awarded under section 202, 203, 204, 205, or 211 of the Act, any amount which has been obligated for costs or costs of operation (whichever is applicable) unallowable under the Act and the provisions of this part.

(2)(i) The recipient of an operations or staffing grant under section 203 (a) or (e) of the Act may retain an amount, not exceeding the percentage (specified, respectively, in section 203 (c) and (e)(1) of the Act) of the amount which it is required to return to the Federal Government under paragraph (d)(1)(ii)(A) of this section, as the recipient can demonstrate to the satisfaction of the Secretary will be used for the purposes set forth, respectively, in clauses (ii) (I) through (V) of the last sentence of section 203(c) of the Act and in clauses (I) through (V) of the last sentence of section 203(e)(1) of the Act. Amounts so retained do not constitute income in the period of any subsequent grant but must be identified in the accounting records.

(ii) The recipient of an operations or staffing grant under section 203 (a) or (e) of the Act which, at the end of any budget period, has not obligated all of the funds awarded for that period (exclusive of any funds retained under paragraph (d)(2)(i) of this section), may use those unobligated funds as part of an operations or staffing grant, respectively, awarded it in the succeeding year. The amount of new funds awarded under the grant in the succeeding year will be reduced by the amount of the unobligated funds which are carried over from the preceding year.

§ 54.109 What limitations are there on expenditures of grant funds?

Any funds granted under this part shall be expended solely for the purposes for which the funds were granted in accordance with the approved application and budget, the regulations of this part, the terms and conditions of the award, and the provisions of 45 CFR Part 74, except that the cost principles set forth in Subpart Q (and its appendices) of 45 CFR Part 74 will not prevent the amount of an expenditure that would otherwise be unallowable from being included in the costs or cost of operation (whichever is applicable) of any approved program if—

(a) Each otherwise unallowable amount—

(1) Is approved in advance by the Secretary—

(i) For a specified purpose or purposes (for which the amount is used),

(ii) As being reasonable for the approved program, and

(iii) As being in accord with generally accepted accounting principles; and

(2) Complies with other conditions the Secretary imposes; and

(b) The total of all these amounts does not exceed the total income (as that term is defined in § 54.108(a)) received, other than income from Federal grants.

§ 54.110 What are some additional requirements that apply?

(a) Other HHS (formerly HEW), regulations that apply to grants under this part include but are not limited to:

42 CFR Part 2 Confidentiality of alcohol and drug abuse patient records.
42 CFR Part 50 Policies of General Applicability.
Subpart D Public Health Service grant appeals process.
Subpart E Maximum Allowable Cost for Drugs.
42 CFR Part 122 Health Systems Agencies.
45 CFR Part 16 Department grant appeals process.
45 CFR Part 46 Protection of human subjects.
45 CFR Part 74 Administration of grants.
45 CFR Part 75 Informal grant appeals procedures (indirect cost rates and other cost allocations).
45 CFR Part 80 Nondiscrimination under programs receiving Federal assistance through the Department of Health, Education, and Welfare: Effectuation of Title VI of the Civil Rights Act of 1964.
45 CFR Part 81 Practice and procedure for hearings under Part 80.
45 CFR Part 84 Nondiscrimination on the basis of handicap in programs or activities receiving or benefiting from Federal financial assistance.
45 CFR Part 86 Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance.
45 CFR Part 90 Nondiscrimination on the basis of age in programs or activities receiving Federal financial assistance.

(b) Appendix B of this part notifies grantees of the continuing programmatic obligations imposed by prior regulations upon recipients of construction grants awarded and staffing grants initially awarded under the authority of the Act as it was in effect before July 29, 1975.

(c)(1) Except as provided in paragraph (c)(2) of this section with respect to planning grants under section 202 of the Act, no grant under the Act will be awarded unless the applicant provides assurances satisfactory to the Secretary that it will develop and maintain both existing and potential relationships or arrangements with providers of alcoholism and alcohol abuse services, and providers of drug abuse services, in the applicant's catchment area to assure that those services are available for residents thereof.

(2) No planning grant under section 202 of the Act will be awarded unless the applicant provides assurances satisfactory to the Secretary that it will, in the course of its activities, develop a plan for appropriate arrangements or relationships with providers of alcoholism and alcohol abuse services, and providers of drug abuse services, in the catchment area for which the application is filed, so that implementation of the plan will result in those services being available to the residents of the catchment area.

(d) No application for a grant under the Act will be approved unless it meets

the applicable requirements of the Act and this part.

(e) Prior to or at the time of any grant award under the Act, the Secretary will impose those additional conditions, whether recommended by the National Advisory Mental Health Council or otherwise, which are in the Secretary's judgment necessary to assure or protect advancement of the purposes of the grant, the advancement of the interest of the public health, or the effectiveness of grant funds.

Subpart B—Grants for Planning Community Mental Health Center Programs

§ 54.201 To whom does this subpart of the regulations apply?

This subpart applies to grants and applications for grants to plan community mental health center programs under section 202 of the Act.

§ 54.202 Who is eligible to apply for a planning grant?

An entity is not eligible for a grant under section 202 of the Act to plan a community mental health center program for a catchment area in a State if—

(a) A grant has previously been made under part A or part C of the Act to that entity or any other entity for a project in that catchment area, or

(b) A grant has previously been made to it or any other entity for a project in that catchment area under part A or part B, other than section 224(b), of the Act as in effect before July 29, 1975.

§ 54.203 How is application made for a planning grant?

An application for a grant under section 202 of the Act will not be approved unless, in addition to meeting the requirements of § 54.106, it is submitted in the manner and detail prescribed by the Secretary, and contains or is accompanied by—

(a) Information as to how the entity will meet the requirements of the second sentence of section 202(a) of the Act (relating to assessment of the need for services, designing a community mental health center program, obtaining financial and professional assistance and support for the program, and community involvement in development and operation of the program);

(b) Assurances satisfactory to the Secretary that the entity will submit—

(1) Within 120 days after the beginning of the period for which the grant is made, a report describing the entity's progress toward meeting those requirements; and

(2) Within 90 days after the end of the period for which the grant was made a final report containing, or an application for a grant under section 203(a) or 222 of the Act containing or accompanied by—

(i) A plan for developing a comprehensive community mental health center program that meets the services and organizational requirements of section 201 of the Act, which plan includes an identification of the problems likely to be encountered in the development of the program and the steps expected to be taken to resolve those problems;

(ii) A description of the professional and financial resources available in or to the catchment area and steps taken to secure the resources necessary to support the program;

(iii) A description of the nature and extent of community involvement in carrying out the project for which the grant was made under section 202 of the Act; and

(iv) A description of the community involvement that is planned in the development and operation of the community mental health center's program for the area;

(c) Information which the Secretary may find necessary to determine if the catchment area with respect to which the grant is requested is an urban or rural poverty area; and

(d) Other information which the Secretary finds necessary to carry out the purposes of the Act.

Subpart C—Grants for Initial Operation or Staffing

§ 54.301 To whom does this subpart of the regulations apply?

This subpart applies to grants and applications for grants for the initial operation or staffing of community mental health centers under section 203 of the Act.

§ 54.302 How is application made for grants for initial operation or staffing?

An application for a grant under section 203 of the Act will not be approved unless, in addition to meeting the requirements of § 54.106, it is submitted in the manner and detail prescribed by the Secretary and contains or is accompanied by—

(a)(1) A description of (i) each of the services to be provided under the program proposed by the applicant, including information identifying its location or locations and describing how residents of the catchment area in need thereof will have access to the services taking into account the hours at which each will operate, availability of public transportation, and other relevant considerations, (ii) the manner in which each of the services is or will be provided, and (iii) if the inpatient, emergency, or halfway house services (or any combination thereof) required under section 201(b)(1) of the Act are not to be provided within the catchment area, the circumstances leading to that result;

(2) A description of the services which will be added in the period for which the grant is requested and the following year, including a timetable for addition of any of those services which are included in section 201(b) of the Act; and

(3) If the applicant is requesting waiver of the requirement of either or both of the service programs (for alcoholism and alcohol abuse, or drug abuse) referred to in section 201(b)(1)(B)(v) of the Act, sufficient information to enable the Secretary to determine whether there is a need for the program or programs or the need is being met, as well as evidence satisfactory to the Secretary that the governing body of the applicant approved that request or, in the case of an applicant to which section 201(c)(1)(B) of the Act applies, that the advisory committee (referred to in that section) of the applicant was given an opportunity to consider and made recommendations with respect to that request before it was made, along with information as to what the recommendations (if any) were;

(b) A description of the staff of the applicant, their disciplines, numbers (including an indication of the number who will be full-time staff members and the percentage of full-time service which each of the other staff members will perform), and assignments, and the manner in which they are or will be organized to carry out the program of the applicant, together with a justification of the assignments and organization; information as to the need for and availability of the kinds and quantities of the staff proposed and the plans for their recruitment and compensation; and provisions for—

(1) The assignment of a person (relating directly to the governing body) with overall responsibility for directing the program of the applicant who is—

(i) a professional in the field of mental health, or health or mental health administration,

(ii) qualified to have overall responsibility for directing the program of the applicant by training and experience (which must include experience in a mental health setting) meeting standards prescribed by the Secretary in guidelines or other informational materials, and

(iii) employed in the program of the applicant on a full-time basis primarily

for directing the program of the applicant;

(2) The assignment, for each of the services specified in paragraph (b)(2) (i) through (v) of this section, of a different staff member employed in the program of the applicant on a full-time basis (except as otherwise permitted by the Secretary for good cause) primarily for, and who is qualified by training or experience for, planning, providing at least some, and arranging for the balance of, the specific service to which the staff member is assigned from among—

(i) Services for children,

(ii) Services for the elderly,

(iii) Consultation and education services,

(iv) Alcoholism and alcohol abuse services (unless waived under section 201(b)(1)(B)(v) of the Act), and

(v) Drug abuse services (unless waived under section 201(b)(1)(B)(v) of the Act);

(3) An identifiable administrative unit (required under section 201(d)(4) of the Act) responsible for planning, providing at least some, and (to the extent not provided by that unit) arranging for the provision of consultation and education services, with at least one staff member assigned to the unit on a full-time basis for this purpose (who may also be the staff member required under paragraph (b)(2)(iii) of this section); or information sufficient to enable the Secretary to determine that waiver of the requirement of the unit is warranted under the last sentence of section 201(d) of the Act;

(c) Information on the projected costs of operation of the applicant for the year for which the grant is sought, with an indication of the portion thereof attributable to each of the 5 services referred to in paragraph (b)(2) (i) through (v) of this section with a justification therefor—

(1) Explaining the allocation made to each of these 5 services in light of the needs identified pursuant to § 54.106(d)(3);

(2) Showing that not less than 60 percent of the expenditures (other than capital expenditures) is allocated to salaries and related benefits for the staff or, if less than 60 percent is so allocated, explaining the reasons for the way in which the applicant has allocated its expenditures; and

(3) Including information as to total costs and costs related to each of the services referred to in paragraph (b)(2) (i) through (v) of this section (if any) incurred during the two years most recently completed prior to the beginning of the period for which support is sought;

(d) Information which the Secretary finds necessary to determine if the catchment area with respect to which the grant is sought is an urban or rural poverty area;

(e) Information sufficient to determine whether there is a reasonable assurance of adequate financial support for the operation of the applicant when assistance under part A of the Act is reduced or no longer available;

(f) A description of the membership of the applicant's governing body sufficient to enable the Secretary to determine its compliance with section 201(c)(1)(A) of the Act, or a description of the membership of its advisory committee sufficient to enable the Secretary to determine its compliance with section 201(c)(1)(B) of the Act, whichever is applicable;

(g) A description of the procedure for developing, compiling, evaluating, and reporting statistics and other data to be followed in carrying out assurances given under section 206(c)(1)(A) of the Act;

(h) A long-range plan for the expansion of the program as required by the last 2 sentences of section 206(c)(1) of the Act (1) which covers a period of at least 5 years, beginning with the year for which the applicant's first grant under section 203 of the Act is made, or the number of years for which grants may be made to the applicant under the section of the Act under which the application is filed, whichever is longer, (2) which includes, at least for the first 2 such years, demographic and other data supporting its estimates of increased demand during that period, and (3) which devotes particular attention to increasing the asessibility of the services provided;

(i) In the case of any applicant requesting the Secretary to grant the waiver permitted under section 206(c)(3) of the Act, a description of the actions it will undertake, during the period for which its first grant under section 203 of the Act is made, so as to meet the requirements of section 206(c) (1) and (2) by the end of that period;

(j) Except to the extent otherwise permitted under section 206(c)(3) of the Act, information regarding (1) the number and proportion of persons in the catchment area of the applicant who are of limited English-speaking ability, (2) the procedures to be followed so as to make the applicant's program responsive to the needs of those persons, including descriptions of arrangements made for providing services to those persons, and (3) how the staff member or members who are fluent in both English and the primary language or languages of those persons will be identified and will perform their functions under section 206(c)(1)(D) of the Act; except that, if the number of members of the area's population of limited English-speaking ability who have the same primary language is less than 2,500, the requirement under section 206(c)(1)(D) to have bilingual staff will be waived with respect to that portion of the population with that primary language but only if the applicant demonstrates to the satisfaction of the Secretary that adequate arrangements have been made to assure availability of services for that portion of the population;

(k) In the case of any services not provided by staff of the applicant (but for the provision of which the applicant is responsible under the Act), information on (1) the arrangements made to provide those services, including descriptions of existing or proposed contracts with the organizations, agencies, and persons providing the services and a description of the proposed disposition of income from the provision of the services, and (2) the organizational relationship to and responsibility for the services of the applicant's governing body (or advisory committee), director, and staff members assigned under paragraph (b)(2) of this section;

(l) Assurances that the applicant will, to the extent of its financial ability to do so, make its services available to those unable to pay therefor, as well as documentation of its experience in this regard in the 2 years preceding the period for which the grant is requested;

(m) A description of the procedures to be followed in the case of any medical emergencies arising during the examination or treatment of any patients of the applicant, including the transportation and other arrangements made for the use of other facilities for this purpose and the location of those facilities if the facilities of the applicant (or its satellite centers) are not adequate or readily available for this purpose; and

(n) Other information which the Secretary finds necessary to carry out the purposes of the Act.

(o) With respect to the requirements of this section, an application for a grant under section 203(e) of the Act for the continuation of a children's staffing grant initially awarded under section 271 of the Act (as in effect before July 29, 1975) must contain or be accompanied by only the descriptions, assurances or other information listed in paragraphs (a)(1) (i) and (ii), (b)(2)(i), (e), (g), (j), (k), (l), (m), and (n) of this section.

Subpart D—Grants for Consultation and Education Services

§ 54.401 To whom does this subpart of the regulations apply?

This subpart applies to grants and applications for grants for consultation and education services of community mental health centers under section 204 of the Act.

§ 54.402 How is application made for grants for consultation and education services?

An application for a grant under section 204 of the Act will not be approved unless, in addition to meeting the requirements of § 54.106, it is submitted in the manner and detail prescribed by the Secretary and contains or is accompanied by—

(a) Evidence that a study was made of the needs of the catchment area for consultation and education services;

(b) Evidence showing that in conducting the study—

(1) There was appropriate consultation with individuals, entities, and groups in the catchment area which are involved with mental health services, such as health professionals, schools, courts, State or local governments, law enforcement or correctional agencies, members of the clergy, public welfare agencies, and health services delivery agencies, as well as organizations representing groups such as industry, labor, and women or minority population groups, and other appropriate community agencies and organizations; and

(2) Appropriate account was taken of the assessment of service needs developed by the applicant in the course of its program planning and evaluation and the assessment of those needs developed by the State in preparing the State plan for purposes of section 237 of the Act;

(c) An analysis of the results of the study and a plan to meet the needs revealed by the study;

(d) Provision for an identifiable administrative unit (required under section 201(d)(4) of the Act) that—

(1) Is responsible for directing, planning, and providing at least some of the consultation and education services, and (to the extent not provided by that unit) arranging for the provision of the balance of those services, and

(2) Includes at least one staff member assigned to the unit on a full-time basis for, and qualified by training or experience for, directing and carrying out the responsibilities described in paragraph (d)(1) of this section (this person may also serve to meet the requirements of § 54.302 (b)(2)(iii) and (b)(3));

(e) A description of how the resources of the applicant will be used to help the various agencies, organizations, and individuals in the catchment area—

(1) To improve the handling of rape victims through appropriate mental health and other medical services and social services, and

(2) To aid in the prevention of rape; and

(f) The information, material, or assurances required by Section 54.302 (g), (j), and (l); and

(g) Other information which the Secretary finds necessary to carry out the purposes of the Act.

Subpart E—Conversion Grants

§ 54.501 To whom does this subpart of the regulations apply?

This subpart applies to grants and applications for grants for conversion of community mental health centers under section 205 of the Act.

§ 54.502 How is application made for conversion grants?

An application for a grant under section 205 of the Act will not be approved unless, in addition to meeting the requirements of § 54.106, it is submitted in the manner and detail prescribed by the Secretary, and contains or is accompanied by—

(a) A description of the staff of the applicant, their disciplines, numbers (including an indication of the number who will be full-time staff members and the percentage of full-time service which each of the other staff members will perform), and assignments;

(b) Information identifying and describing the service or services for the costs of which the grant is sought and the manner in which they are or will be provided;

(c) Documentation and other evidence necessary to enable the Secretary to determine that the service or services (1) were not among the essential elements of comprehensive services prescribed by the Secretary under section 221(a)(2) of the Act as in effect before July 29, 1975, and (2) were not being provided by the applicant before July 29, 1975, or if provided were not being provided to the same category of persons in the catchment area;

(d) For the year for which the grant is sought—

(1) The projected costs of operation of the applicant and the portion thereof attributable to each service with respect to which the grant is sought;

(2) The projected receipts of the applicant from fees, premiums, and third party reimbursements for the provision of services and the portion attributable to each service with respect to which the grant is sought; the projected receipts from state, local, and other funds including funds under a grant under section 203, 204, or 211 of the Act; and the amount expected from each source; and

(3) An estimate of the portion of each service to be provided for persons unable to pay the full cost of the service;

(e) Documentation and other information demonstrating—

(1) That the applicant has taken appropriate steps to identify existing and anticipated sources of funds (other than a grant under section 205 of the Act) to help meet the costs of the service or services with respect to which the grant is sought, as well as the costs of other services to be provided under the program of the applicant; and

(2)(i) That it has made reasonable efforts to secure the needed funds from those sources; but (ii) that sufficient funds from these and other sources are not available to cover the costs of service or services for that year;

(f) A description of the process by which the applicant assessed the need of its catchment area for the service or services with respect to which the grant is sought, as well as for the other services to be provided under the program of the applicant;

(g) The applicant's plan for integrating the service or services with respect to which the grant is sought with the other services provided under the program of the applicant so that comprehensive services will be available by (or through) the applicant within a reasonable period which is specified by the applicant, but which in no case may extend beyond the end of the first year after the end of the year for which the grant is sought;

(h) The applicant's plans for providing, after the year for which the grant is sought, the service or services with respect to which the grant is sought and the other services to be provided under the program of the applicant, and its plans for developing or securing resources to help meet the costs of providing each of these services after that year;

(i) In the case of an applicant also making application under section 211 of the Act, the information, material, or assurances required by § 54.302 (e), (f), (h), and (i); and

(j) Other information which the Secretary finds necessary to carry out the purposes of the Act.

§ 54.503 What is the time for submitting the application?

An application by any entity for a grant under section 205 of the Act for any year will not be eligible for approval unless it is submitted at the same time as and for the same time period as its application for a grant for that year under section 203 or 211 of the Act, unless the applicant shows to the satisfaction of the Secretary that there was good cause for the failure and the applicant submits the section 205 application within the time period prescribed by the Secretary.

Subpart F—Financial Distress Grants

§ 54.601 To whom does this subpart of the regulations apply?

This subpart applies to grants and applications for grants for financial distress of community mental health centers under section 211 of the Act.

§ 54.602 Who is eligible to apply for a financial distress grant?

(a) An entity which files its application as required under paragraph (b) of this section is eligible for a financial distress grant under section 211 of the Act only if it shows to the satisfaction of the Secretary that—

(1) Without that grant for the year for which it is sought—

(i) There will be a significant reduction in the types, level, or quality of the services it is or was providing at the time of filing the application for the grant or at any time during the most recent year (ending before that filing) in the period for which it received the grant or grants referred to in paragraph (a)(3) of this section, or

(ii) The entity will be unable to provide any one or more of the services described in section 201(b) of the Act even if it is not and was not providing these services at the times referred to in paragraph (a)(1)(i) of this section;

(2) The needs of the catchment area for the services referred to in paragraph (a)(1) of this section cannot be met through other financial resources reasonably available to the entity; and

(3) The entity—

(i) Has received one or more operations grants under section 203(a) of the Act and is not eligible for further grants thereunder because of the expiration of the period for which those grants may be made, or

(ii) Did not receive an operations grant but did receive a staffing grant for compensation of personnel or its initial operation under section 220 of the Act as in effect before July 29, 1975 and is not eligible for a futher grant under that section (as continued in effect by section 203(e) of the Act) for such compensation of personnel for a fiscal year beginning after June 30, 1975 because of the expiration of the period for which those grants may be made.

(b) An entity is eligible for a financial distress grant under section 211 of the Act only if its application for its first grant under that section is—

(1) Filed by the later of (i) November 1, 1980 or (ii) two years after the end of the period for which its final grant was made under section 203(a) or 203(e) of the Act (under which section 220 remains in effect), or

(2) Filed by November 1, 1980 in the case of an entity which has not received a grant under section 203 (a) or (e) for any period, but which did receive a grant or grants under section 220 of the Act for any period beginning before July 29, 1975.

§ 54.603 How is application made for a financial distress grant?

An application for a grant under section 211 of the Act will not be approved unless, in addition to meeting the requirements of § 54.106, it is submitted in the manner and detail prescribed by the Secretary, and contains or is accompanied by—

(a) Information as to the amount of funds received and reasonably expected from each source during the year for which the grant is requested and each of the three years preceding that year;

(b) Information as to the applicant's cost of operation for the same 3-year period, which also reflects the increases, decreases, changes in categories of, and other relevant changes in those costs;

(c) Information on the projected costs of operation of the applicant for the year for which the grant is sought, with an indication of the portion thereof attributable to each of the 5 services referred to in paragraph (b)(2) (i) through (v) of § 54.302 and with a justification therefor—

(1) Explaining the allocation made to each of these 5 services in light of the needs identified under § 54.106(d)(3); and

(2) Including information as to total costs and costs related to each of the services referred to in paragraphs (b)(2) (i) through (v) of § 54.302 (if any) during the two years most recently completed prior to the beginning of the period for which support is sought;

(d) Documentation of the efforts made by the applicant to develop or secure additional or alternative non-Federal sources of financing its costs of operation;

(e) Information as to the conditions or circumstances in the catchment area which may have contributed to the applicant's financial difficulties;

(f) Information on the results of studies and analyses conducted, at the request of the Secretary under section 212(a)(2) of the Act or otherwise, to determine the causes of the applicant's financial difficulties;

(g) Documentation of the operational and financial reforms undertaken, in progress, and planned by the applicant on the basis of the information obtained in the course of these studies and analyses or on the basis of other relevant information;

(h) Assurances satisfactory to the Secretary that the applicant will—

(1) Within one year after the end of the year for which the first grant under section 211 of the Act is made to it, meet the requirements of section 201 (c) and (d) of the Act with respect to the applicant's organization; and

(2) Within two years after the end of the year for which that first grant was made, provide the services described in section 201(b) of the Act, except that, if the applicant is eligible for a grant by reason of paragraph (a)(1)(i) of § 54.602, that two year period may, upon the request of the applicant showing good cause, be extended by the amount of time as the Secretary finds necessary to enable the applicant to provide the services;

(i)(1) Information on the plan the applicant has developed for providing the services described in section 201(b) of the Act and for meeting the requirements of section 201 (c) and (d) of the Act within the period prescribed in paragraph (h) of this section,

(2) Information on the periods within which various stages of progress toward completion or accomplishment of the plan will be attained, including the stage expected to be attained at the end of the year for which the grant is requested, and

(3) Assurances satisfactory to the Secretary that the applicant will periodically review and appropriately revise the plan;

(j) The information, material, or assurances required by § 54.302 (a), (b), (g), (j), (k), (l), and (m); and

(k) Other information which the Secretary finds necessary to carry out the purposes of the Act.

§ 54.604 For what purposes may a financial distress grant be used?

A grant under section 211 of the Act is available only to help defray the projected costs of operation (except those projected costs relating to the provision of consultation and education services) and only to the extent necessary to enable the grantee to

prevent a significant reduction in the types, level, or quality of services it was providing at the time referred to in § 54.602(a)(1)(i) or to help carry out the assurances provided under § 54.603(h), or both, as the case may be.

Subpart G—Facilities Assistance [Reserved]

Appendix A.—*Poverty Cutoffs: Criteria Used in Determining Poverty Status for the 1970 Census*

[Income figures are for 1969]

Family size	Number of related children under 18 years old						
	None	1	2	3	4	5	6 or more
Nonfarm							
Male head:							
1. Under 65 years old	$1,975						
65 years old and over	1,777						
2. Under 65 years old	2,469	$2,766					
65 years old and over	2,216	2,766					
3.	2,875	2,968	$3,137				
4.	3,790	3,847	3,715	3,902			
5.	4,574	4,630	4,481	4,388	$4,462		
6.	5,247	5,265	5,153	5,041	4,891	$4,987	
7 or more	6,609	6,665	6,535	6,422	6,274	6,049	$5,964
Farm							
Male head:							
1. Under 65 years old	$1,679						
65 years old and over	1,508						
2. Under 65 years old	2,099	$2,351					
65 years old and over	1,884	2,351					
3.	2,444	2,523	$2,666				
4.	3,222	3,270	3,158	$3,317			
5.	3,888	3,936	3,809	3,713	3,793		
6.	4,460	4,475	4,380	4,285	4,157	$4,222	
7 or more	5,618	5,665	5,555	5,459	5,333	5,142	$5,095
Nonfarm							
Female head:							
1. Under 65 years old	$1,826						
65 years old and over	1,752						
2. Under 65 years old	2,282	$2,491					
65 years old and over	2,190	2,491					
3.	2,781	2,651	$2,931				
4.	3,641	3,771	3,753	3,715			
5.	4,368	4,500	4,481	4,444	$4,294		
6.	5,096	5,191	5,153	5,115	4,948	$4,798	
7 or more	6,403	6,497	6,478	6,422	6,255	6,124	$5,825
Farm							
Female head:							
1. Under 65 years old	$1,552						
65 years old and over	1,489						
2. Under 65 years old	1,940	$2,117					
65 years old and over	1,862	2,117					
3.	2,364	2,253	$2,491				
4.	3,095	3,205	3,190	$3,158			
5.	3,713	3,825	3,809	3,777	$3,650		
6.	4,332	4,412	4,380	4,348	4,206	$4,078	
7.	5,443	5,522	5,506	5,459	5,317	5,205	$4,951

Source: U.S. Bureau of the Census (Department of Commerce), "Public Use Samples of Basic Records from the 1970 Census: Description and Technical Documentation," Washington, D.C., 1972 (p. 122).

Appendix B—Prior Regulations Imposing Continuing Programmatic Obligations Upon Recipients of Construction and Staffing Grants

This appendix sets forth those provisions of Subpart C and Subpart D of 42 CFR Part 54 as they appeared prior to the revision of June 30, 1976 (41 FR 26906) which are applicable to, and impose continuing programmatic obligations upon, recipients of construction and staffing grants, respectively, initially awarded from appropriations made under the authority of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 as it was in effect prior to the enactment (on July 29, 1975) of the Community Mental Health Centers Amendments of 1975 (Title III of Pub. L. 94-63). Provisions of Subparts C and D which do not impose continuing programmatic obligations are not reprinted in this appendix.

For those staffing grant recipients who have received grants awarded from appropriations made under the authority of the Act prior to the 1975 Amendments and who also receive grants subsequent to the 1975 Amendments under the authority of section 203(e) of the Community Mental Health Centers Act, §§ 54.302(b), (c), and (d)(2)(iv) and 54.308 of Subpart D as set forth in this appendix are superseded by the 1975 Amendments or the regulations thereunder, or both. These provisions are noted in the appendix in brackets.

Construction and staffing grant recipients may have obligations other than those set forth in the regulations reprinted in this appendix imposed upon them through the authorizing legislation, the terms and conditions of previous construction or staffing grant awards, or through the conditions applicable to other grants awarded to them under the Community Mental Health Centers Act.

Subpart C—Grants for Construction of Community Mental Health Centers

Subpart D—Grants for Initial Cost of Professional and Technical Personnel of Community Mental Health Centers

Subpart C—Grants for Construction of Community Mental Health Centers

Authority: The provisions of this Subpart C issued under sec. 203, 77 Stat. 291; 42 U.S.C.

2683, Secs. 200 to 207, 401–407, 77 Stat. 290–294, 296–299; 42 U.S.C. 2681–2687, 2691–2696.

Source: The provisions of this Subpart C appear at 29 FR 5951, May 6, 1964, unless otherwise noted.

§ 54.201 Definitions.

As used in this subpart all terms not defined herein shall have the same meaning as indicated in the Act.

(a) "Act" means the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (Pub. L. 88–164).

(b) "Area" means the geographic territory which includes one or more communities served or to be served by existing or proposed community mental health facilities, the delineation of which is based on such factors as population distribution, natural geographic boundaries, and transportation accessibility. Nothing in the regulations in this subpart shall preclude the formation of an interstate area with the mutual agreement of the States concerned.

(c) "Community" means an area or that portion of an area served or to be served by a program providing at least the essential elements of comprehensive mental health services as specified in § 54.212.

(d) "Community mental health facility" means a community mental health center (as defined in section 401(c) of the Act) for the provisions of services which, either alone or in conjunction with other facilities owned or operated by the applicant or affiliated or associated with the applicant, will be part of a program providing, principally for persons residing in a particular community or communities in or near which the center is situated, at least those essential elements of comprehensive mental health services that are prescribed by § 54.212.

(e) "Community service" means that the services to be furnished by a program providing at least the essential elements of comprehensive mental health services will be available to the general public.

(f) "Comprehensive mental health planning" means the planning on a statewide basis for the provision of adequate mental health services, taking into consideration such factors as problems of availability of manpower and facilities, the role of mental hospitals, the development of new improved methods for the treatment or prevention of mental illness, and laws applicable to the mentally ill.

(g) "Comprehensive mental health services" means a complete range of all the elements of service specified in § 54.203(a) in sufficient quantity to meet the needs of persons residing within the community served by a community mental health facility, taking into consideration factors such as the age group served, diagnostic categories treated, and the availability of short, medium and long term care.

(h) "Elements of service" means the individual types of mental health services prescribed in § 54.203(a).

(i) "Essential elements of comprehensive mental health services" means those elements of service prescribed in § 54.212(a).

(j) "Equipment" includes those items which are necessary for the functioning of the facility, but does not include items of current operating expense such as glassware, chemicals, food, fuel, drugs, paper, printed forms, and soap.

(k) "Program" means the existence of and the administrative and working relationships between at least the essential elements of comprehensive mental health services to be provided to a community served by a community mental health facility which meets the criteria of § 54.212.

(l) "Population" means the latest figures of total population residing in the States as certified by the Federal Department of Commerce.

(m) "Surgeon General" means the Surgeon General of the Public Health Service.

(n) "Title II of the Act" means the "Community Mental Health Centers Act" (Title II, Pub. L. 88–164). [29 FR 5951, May 6, 1964, as amended at 32 FR 8146, June 7, 1967]

§ 54.203 State plan; elements of adequate services; facilities; relationship to other planning.

(a) *Adequate services.* The State plan shall provide for the following elements of service which are necessary to provide adequate mental health services for persons residing in the State, which shall constitute the elements of comprehensive mental health services:

(1) Inpatient services;

(2) Outpatient services;

(3) Partial hospitalization services such as day care, night care, week-end care;

(4) Emergency services 24 hours per day must be available within at least one of the first three services listed above;

(5) Consultation and education services available to community agencies and professional personnel;

(6) Diagnostic services;

(7) Rehabilitative services, including vocational and educational programs;

(8) Precare and after-care services in the community, including foster home placement, home visiting and half-way houses;

(9) Training;

(10) Research and evaluation.

(b) *Adequate facilities*—(1) *Provision of services.* Based on comprehensive mental health planning, the State plan shall provide for adequate community mental health facilities for the provision of programs of comprehensive mental health services to all persons residing in the State and for furnishing such services to persons unable to pay therefor, taking into account the population necessary to maintain and operate efficient facilities and the financial resources available therefor.

(2) *Accessibility of services.* The State plan shall provide that every community mental health facility shall:

(i) Serve a population of not less than 75,000 and not more than 200,000 persons except that the Surgeon General may, in particular cases, permit modifications of this population range if he finds that such modifications will not impair the effectiveness of the services to be provided;

(ii) Be so located as to be near and readily accessible to the community and population to be served, taking into account both political and geographical boundaries;

(iii) Provide a community service; and

(iv) Provide needed services for persons unable to pay therefor.

(c) *Financial feasibility.* The State plan shall set forth the policies and criteria to be used in evaluating the adequacy of financial support for the maintenance and operation of the program as described in § 54.212 when construction is completed, which shall include such factors as the proposed source or sources of funds, and the per capita and family income range of the population to be served.

§ 54.209 State plan; assurances from applicant.

In addition to any other requirements imposed by law each construction grant shall be subject to the condition that the applicant will furnish and comply with the following assurances. The Surgeon General may at any time approve exceptions to these assurances and conditions where he finds that such exceptions are not inconsistent with the Act and the purposes of the program.

(a) That applicant (or other public or nonprofit agency which is to operate the facility) has or will have a fee simple or such other estate or interest in the site, including necessary easements and rights-of-way, sufficient to assure for a period of not less than 50 years undisturbed use and possession for the purpose of the construction and operation of the facility.

(g) That applicant will maintain adequate and separate accounting and fiscal records and accounts for all funds provided from any source to pay the cost of the project, and permit audit of such records and accounts at any reasonable time.

(h) That applicant will furnish progress reports and such other information as the Surgeon General may require.

(k) That sufficient funds will be available when construction is completed for effective use of the facility for the purpose for which it is being constructed.

(m) That the facility will be operated and maintained in accordance with minimum standards prescribed by the State agency for the maintenance and operation of such facilities.

(n) That the services to be provided by the facility, alone or in conjunction with other facilities owned or operated by the applicant, will be made available for a program providing, principally for persons residing in a particular community or communities in or near which such facility is to be situated, at least those essential elements of comprehensive mental health services prescribed in § 54.212.

[29 F.R. 5951, May 6, 1964, as amended at 32 FR 8146, June 7, 1967; 38 FR 26197, Sept. 19, 1973]

§ 54.210 Community service; services for persons unable to pay; nondiscrimination.

(a) *Community service; services for persons unable to pay; nondiscrimination on account of creed; nondiscrimination in construction contracts.* Before an application for the construction of a community mental health center is recommended by a State agency for approval, the State agency shall obtain assurances from the applicant that:

(1) The facility will furnish a community service;

(2) The facility will furnish below cost or without charge a reaonable volume of services to persons unable to pay therefor. As used in this paragraph, "persons unable to pay therefor" includes persons who are otherwise self-supporting but are unable to pay the full cost of needed services. Such services may be paid for wholly or partly out of public funds or contributions of individuals and private and charitable organizations such as community chest or may be contributed at the expense of the facility itself. In determining what constitutes a reasonable volume of services to persons unable to pay therefor, there shall be considered conditions in the area to be served by the applicant, including the amount of such services that may be available otherwise than through the applicant. The requirements of assurance from the applicant may be waived if the applicant demonstrates to the satisfaction of the State agency, subject to subsequent approval by the Surgeon General, that to furnish such services is not feasible financially;

(3) All portions and services of the entire facility for the construction of which, or in connection with which, aid under the Federal Act is sought, will be made available without discrimination on account of creed; and no professionally qualified person will be discriminated against on account of creed with respect to the privilege of professional practice in the facility;

(4) That the applicant will comply with the requirements of, and give the assurances required in, Executive Order 11114, June 22, 1963 (28 F.R. 6485), and the applicable rules, regulations, and procedures prescribed pursuant thereto by the President's Committee on Equal Employment Opportunity (28 F.R. 9812).

(b) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; Pub. L. 88-352) which provides that no person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance (sec. 601). A regulation implementing such Title VI, applicable to grants for construction of community mental health centers, has been issued by the Secretary of Health, Education, and Welfare with the approval of the President (45 CFR Part 80). This regulation, published in the Federal Register of December 4, 1964 (29 FR 16298-16305) is effective on January 3, 1965, the 30th day after publication. [30 F.R. 2443, Feb. 25, 1965]

§ 54.212 Projects; essential elements of comprehensive mental health services; program requirements.

(a) *Essential elements of comprehensive mental health services.* The essential elements of comprehensive mental health services are:

(1) Inpatient services.

(2) Outpatient services.

(3) Partial hospitalization services—must include at least day care service.

(4) Emergency services provided 24 hours per day must be available within at least one of the first three services listed above.

(5) Consultation and education services available to community agencies and professional personnel.

(b) *Services of facility as part of a program.* To the extent that the services to be provided within the proposed facility do not constitute a program providing at least the essential elements of comprehensive mental health services, the application shall demonstrate to the satisfaction of the Surgeon General that the services to be provided within the proposed facility will be part of such a program (as described below).

(c) *Criteria of program.* As used in this section, a program for providing at least the essential elements of comprehensive mental health services must take into consideration the needs of all age groups, assure continuity of care for patients and assure that the relationship between the individual elements of the services meets the following criteria:

(1) (i) That any person eligible for treatment within any one element of service will also be eligible for treatment within any other element of service;

(ii) That any patient within any one element can and will be transferred without delay to any other element (provided that adequate space is available) whenever such a transfer is indicated by the patient's clinical needs;

(iii) The clinical information concerning a patient which was obtained within one element be made available to those responsible for that patient's treatment within anyu other element;

(iv) That those responsible for a patient's care within one element can, when practicable and when not clinically contraindicated, continue to care for that patient within any of the other elements; and

(v) In cases where two or more of the individual elements of services are provided by different organizations, agencies, or persons, the relationships between the individual elements must be evidenced by appropriate contracts or other formal written agreements (copies of which must accompany the application) among the various organizations, agencies, or persons which make specific provisions for assuring compliance with the criteria set forth in this section.

(2) The medical responsibility for each patient will be vested in a physician. Psychiatric consultation must be available on a continuing and regularly scheduled basis, not less than once weekly.

(3) The overall direction of a center may be carried out by a properly qualified member of any one of the mental health professions.

(4) That general practitioners and other non-psychiatric physicians in the community served by the program will be allowed, when qualified, to follow and assist in the care of their patients on the various services of the program provided they are working under the supervision of a member of the psychiatric staff of the service.

(5) That the services of the program will not be denied to any person residing within the area served solely on the ground that such person does not meet a requirement for a minimum period of residence in such area.

(d) *Budgetary and staffing pattern.* The application shall include a description of the proposed sources of operating income for all elements of service included in the program and a proposed operating program budget for the two-year period immediately following the completion of construction of the facility. There shall also be included the proposed staffing pattern for all elements of the program by major professional categories.

[29 FR 5951, May 6, 1964, as amended at 32 F.R. 8146, June 7, 1967]

§ 54.213 Change of status of facility.

The State agency shall promptly notify the Surgeon General in writing, if at any time within 20 years after the completion of construction, any facility which received funds under Title II of the Act is sold or transferred to any person, agency, or organization not qualified to file an application under Title II of the Act or is not approved as a transferee by the State agency, or ceases to be a public or nonprofit community mental health center as defined in the Act.

§ 52.214 Good cause for other use of facility.

If within 20 years after completion of any construction for which a construction grant has been made the facility shall cease to be a public or nonprofit community mental health center, the Surgeon General in determining whether there is good cause for releasing the applicant or other owner of the facility from the obligation to continue such facility as a public or other nonprofit community mental health center, shall take into consideration the extent to which:

(a) The facility will be devoted by the applicant or other owner to use for another public purpose which will promote the purpose of the Act; or

(b) There are reasonable assurances that for the remainder of the 20 year period other facilities not previously utilized for the care of the mentally ill will be so utilized and are substantially equivalent in nature and extent for such purposes.

§ 54.214a Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under this subpart:

45 CFR Part 74

Subpart
- A General.
- B Cash Depositories.
- C Bonding and Insurance.
- D Retention and Custodial Requirements for Records.
- F Grant-Related Income.
- G Matching and Cost Sharing.
- K Grant Payment Requirements.
- L Budget Revision Procedures.
- M Grant Closeout, Suspension, and Termination.
- O Property.

Q Cost Principles.

[88 FR 26197, Sept. 19, 1973]

Subpart D—Grants for Initial Cost of Professional and Technical Personnel of Community Mental Health Centers.

Authority: The provisions of this Subpart D issued under sec. 223, 79 Stat. 429; 42 U.S.C. 2688c. Secs. 220–224, 408, 79 Stat. 428–429; 42 U.S.C. 2688–2688d, 2697.

Source: The provisions of this Subpart D appear at 31 FR 3246, Mar. 1, 1966, unless otherwise noted.

§ 54.301 Definitions.

As used in this subpart all terms not defined herein shall have the same meaning as indicated in the Act or as defined in Subpart C of this part.

"Act" means the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, as amended (42 U.S.C. 2661 et seq.).

"Predecessor of the applicant" means any public or private agency or organization providing services for which the applicant proposes to assume responsibility under his application.

"Initial grant period" means as to a particular application the first period with respect to which assistance is granted under Part B of Title II of the Act.

"Grant period" means an initial grant period or any subsequent grant period.

"Application" means, unless otherwise indicated, a request for assistance under Part B of Title II of the Act for an initial grant period.

§ 54.302 Eligible centers.

To be eligible for a grant to assist in the initial operation of a community mental health center under Part B of Title II of the Act the application must be in accordance with, and set forth the assurances and information required by, section 221(a) of the Act and § 54.305.

(a) For purposes of section 221(a)(2) of the Act the essential elements of a comprehensive mental health center and the program requirements of the center shall be those specified in § 54.212 (a) and (c) of Subpart C of this part.

(b) For purposes of section 221(a)(3) of the Act the type of service will not be regarded as having been previously provided by the center if it is an element of service (1) which, during the 2 years immediately preceding an initial grant period, has not been provided by the applicant or any predecessor of the applicant in any form or (2) which the applicant proposes to provide in accordance with methods of treatment or delivery of service not used by the applicant or predecessor of the applicant during such 2-year period or (3) which the applicant proposes to provide in a way designed to meet the needs of a specific group not served by such a specific program during such 2-year period or (4) which represents the portion of an expanded element of service attributable to the needs of persons residing in an area where such element was not provided during such 2-year period or (5) which has been provided by the applicant or predecessor of the applicant only on a pilot or development basis for a period of 9 months or less. [For recipients of staffing grants under section 203(e) of the Act, paragraph (b) has been superseded by section 206(c)(2)(B)(i) of the Act, 42 U.S.C. 2689e(c)(2)(B)(i).]

(c) For purposes of section 221(a)(4) of the Act, with respect to assurance that Federal funds will not supplant non-Federal funds, budget information meeting the requirements of § 54.305(b) sufficient to support a grant under § 54.306, together with information providing an adequate basis for a determination by the Surgeon General under paragraph (d)(2)(iv) of this section that there has not been a decline in State financial support, shall be deemed to constitute such satisfactory assurance: *Provided,* That in determining whether there has been a decline in the proportion of public funds of the State in relation to the total funds expended in the State for mental health services as provided in paragraph (d)(2)(iv) of this section, the Surgeon General may, if he finds in a particular case that such action is consistent with section 221(a)(4) of the Act, disregard funds from private sources. [For recipients of staffing grants under section 203(e) of the Act, paragraph (c) has been superseded by section 206(c)(2)(B)(ii) of the Act, 42 U.S.C. 2689e(c)(2)(B)(ii).]

(d) In addition to describing the services to be provided by the center in the State mental health plan in accordance with section 221(a)(5) of the Act the State mental health authority shall submit to the Surgeon General:

(2) Such additional information as the Surgeon General may require in order to show: . . . (iv) the amount of funds derived from public revenues of the State expended or estimated to be expended during the current calendar year and the 2 preceding calendar years to provide public and private nonprofit mental health services for the population of the State, sufficiently documented to enable the Surgeon General to determine that the amount expended or estimated to be expended by the State for such purposes during such current year has not declined or will not decline, either on a per capita basis or in proportion to the total amount expended in the State for such services from all sources, from the amount expended in either of such 2 preceding years. [For recipients of staffing grants under section 203(e) of the Act, paragraph (d)(2)(iv) has been superseded by section 206(c)(2)(B)(ii) of the Act, 42 U.S.C. 2689e(c)(2)(B)(ii).]

(f) The center shall be one which will serve a population of not less than 75,000 and not more than 200,000 persons, except that the Surgeon General may in particular cases, permit modification of this population range if he finds that such modifications will not impair the effectiveness of the services to be provided.

§ 54.303 Eligible costs.

(a) *Personnel covered.* For purposes of section 220(a) of the Act and of this subpart, professional and technical personnel shall be those persons who participate in the provision of an element or elements of service in accordance with section 221(a)(3) of the Act and as set forth in § 54.302(b) and who are found by the Surgeon General to be appropriately qualified under the circumstances to occupy positions which require professional or special mental health training or experience.

(b) *Allowable compensation.* Federal funds may be granted under Part B of Title II of the Act, with respect to the costs of compensation of personnel of the types described in paragraph (a) of this section. For purposes of this subpart, "compensation" shall include remuneration for services, vacation, holiday and severance pay, sick leave, workmen's compensation and employee insurance, social security taxes and retirement plans costs, and such other benefits in return for service performed as the Surgeon General finds reasonably necessary to secure the services of qualified personnel in the area.

§ 54.305 Submittal of application.

[NB-Title line to § 54.305 to remain.]

(c) *Assurance as to community service and nondiscrimination.* (1) Each application for assistance under Part B of Title II of the Act shall contain the assurances required of the applicants under § 54.210 of Subpart C of this part relating to community service and services for persons unable to pay. Such assurances shall also contain a specific assurance that the applicant and affiliates will not refuse to provide any service to an individual solely for the reason that the individual is able to pay if an equivalent program of services is not otherwise available to the individual.

(2) Each application for assistance under Part B of Title II of the Act shall contain the assurances required of the applicants as provided in § 54.210 of Subpart C of this part relating to nondiscrimination. Such assurances shall also contain a specific assurance that in the selection, compensation, or other employment practices with respect to the technical or professional personnel referred to in § 54.303(a) there shall be no discrimination because of race, creed, color, sex, or national origin.

§ 54.305a Content of application—programs for the provision of drug abuse treatment and rehabilitation services.

(a) *Information.* Each application for a grant under section 220(a) of the Act (including applications for continuation support) for any fiscal year beginning after June 30, 1972, shall contain:

(1) Information sufficient to enable the Secretary to determine whether the need for a program of treatment and rehabilitation services for drug addicts and other persons with drug abuse and other drug dependence problems residing in the catchment area served by the applicant is of such magnitude, in the fiscal year for which grant support is requested, as to warrant the provision of such a program of services by the applicant for such fiscal year. Such information shall include:

(i) An estimate of the total population of the catchment area served by the applicant and an estimate of the number of drug addicts and drug abusers (classified by type of drug abused) in such catchment area, which shall be supported by relevant

information obtained from local hospitals, medical personnel, law enforcement agencies, educational institutions, and citizen groups concerned with drug abuse problems;

(ii) Identification of existing Federal, State and local programs for the provisions of drug abuse treatment and rehabilitation services to residents of the catchment area served by the applicant and an estimate of whether such programs are sufficient to meet the need for such services within the catchment area; and

(iii) Such information as may be available to the applicant with respect to planned Federal, State, and local programs for the provision of drug abuse treatment and rehabilitation services to residents of the catchment area, including a statement with respect to the developmental stage of any such plans, and a brief description of the nature and scope of each such program.

(2) Information sufficient to enable the Secretary to determine whether it is feasible, in the fiscal year for which grant support is requested, for the applicant to establish a program for the provision of drug abuse treatment and rehabilitation services to drug addicts and other persons with drug abuse and other drug dependence problems residing in the catchment area served by the applicant and whether it is feasible for the applicant to assist departments and agencies of the Federal Government in conducting treatment and rehabilitation programs for drug addicts and other persons with drug abuse and other drug dependence problems who are in the catchment area served by the applicant. Such information shall include:

(i) A description of the applicant's existing staff, equipment, facilities, and other resources and a plan for utilizing such existing resources for the provision of drug abuse treatment and rehabilitation services which shall take into account the continuing commitment of the applicant to provide comprehensive mental health services to all residents of the catchment area, the available resources of other agencies with which it has established, or could establish, agreements of affiliation, and the availability of other State and local resources;

(ii) An estimate of additional resources needed to bridge the gap, if any between available existing resources and the need for drug abuse treatment and rehabilitation services in the catchment area and, if existing resources are inadequate, a plan for obtaining additional resources including proposed or pending applications for Federal support, efforts to obtain additional State and local funding, efforts to secure third party reimbursement for services, and specific staff recruiting efforts; and

(iii) A description of any local conditions or other factors such as State and local laws or lack of resources which would affect the applicant's ability to establish or operate new programs, or expand existing programs for the provision of drug abuse treatment and rehabilitation services.

(b) *Direct provision of services*—(1) *Conditional grant awards.* A grant award under section 220(a) of the Act (including awards of continuation grant support) for any fiscal year beginning after June 30, 1972, shall be subject to the condition that upon a determination by the Secretary, with respect to the fiscal year for which grant support is requested, (i) that the need for a treatment and rehabilitation program for drug addicts and other persons with drug abuse and other drug dependence problems residing in the catchment area served by the applicant is of such magnitude as to warrant the provision of such a program by the applicant and (ii) that it is feasible for the applicant to provide such a program, the applicant shall submit an assurance satisfactory to the Secretary that the applicant will provide such a program for the provision of drug abuse treatment and rehabilitation services during such fiscal year.

(2) *Determination of need.* The Secretary may determine that the need for a program of drug abuse treatment and rehabilitation services in the catchment area served by the applicant is of such magnitude as to warrant the provision of such a program by the applicant if he finds, on the basis of the information submitted pursuant to paragraph (a)(1) of this section, the State plan, if any, developed pursuant to section 409 of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1176), and such other pertinent information, as may be available that:

(i) The number of drug abusers in the catchment area served by the applicant is sufficiently large as to warrant the provision of a drug abuse treatment and rehabilitation program in such area;

(ii) Existing Federal, State, and local drug abuse treatment and rehabilitation programs do not adequately serve the population of drug abusers in the catchment area served by the applicant; and

(iii) There are no immediate prospects, within the fiscal year for which staffing grant support is sought, for the implementation of new drug abuse treatment and rehabilitation programs through resources other than those available to the application.

(3) *Determination of feasibility.* The Secretary may determine that it is feasible for the applicant to provide a treatment and rehabilitation program for drug addicts and other persons with drug abuse and other drug dependence problems residing in the catchment area served by the applicant if he finds, on the basis of the information submitted pursuant to paragraph (a)(2) of this section and such other pertinent information as may be available, that:

(i) Existing facilities, qualified staff, and other resources available to the applicant during the fiscal year in question, either directly or through affiliation agreements and contractual arrangements, are adequate and appropriate for the provision of drug abuse treatment and rehabilitation services, or that the applicant has reasonable prospects for obtaining, during the fiscal year in question, such additional resources as may be necessary for the provision of such services.

(ii) The applicant's plan for a program for the provision of drug abuse treatment and rehabilitation services, submitted pursuant to paragraph (a)(2) of this section, does not jeopardize the applicant's continuing commitment to provide other mental health services to all residents of the catchment area; and

(iii) there are no local conditions which would have a significant adverse affect on implementation of the applicant's plan to provide drug abuse treatment and rehabilitation services.

(4) *Assurance.* Upon a determination of need and feasibility in accordance with paragraph (b) (2) and (3) of this section, the Secretary will provide a written notification to the applicant which will briefly state the basis for the Secretary's determinations of need and feasibility. The notification will be accompanied by a form for providing the required assurance. The applicant shall promptly execute the assurance and return it to the Secretary. An applicant shall be deemed to be in compliance with its assurance if it provides, in the fiscal year to which the assurance is applicable, those drug abuse treatment and rehabilitation services which the Secretary has determined to be feasible for such fiscal year.

(5) *Continuation of obligation.* A determination of need and feasibility by the Secretary with respect to the provision of drug abuse treatment and rehabilitation services for any fiscal year shall be presumed to continue to apply to an applicant's requests for support in subsequent fiscal years unless, on the basis of the information submitted by the applicant in its continuation grant application, the Secretary finds that:

(i) It is no longer necessary or feasible for the center to provide the program of drug abuse treatment and rehabilitation services which the Secretary determined to be needed and feasible in the preceding fiscal year; or

(ii) An expanded program of drug abuse treatment and rehabilitation services is needed in the catchment area served by the applicant and it is feasible for the applicant to expand its existing program.

(c) *Assistance to Federal programs*—(1) *Conditional grant awards.* A grant award under section 220(a) of the Act (including awards of continuation grant support) for any fiscal year beginning after June 30, 1972, shall be subject to the conditions that upon a determination by the Secretary that it is feasible for the applicant to assist the Federal Government in drug abuse treatment and rehabilitation programs for drug addicts and other persons with drug abuse and other drug dependence problems who are in the catchment area served by the applicant, the applicant shall submit an assurance satisfactory to the Secretary that the applicant will, if requested, enter into agreements with departments or agencies of the Federal Government pursuant to which the applicant's facilities may be used, to the maximum extent practicable, in drug abuse treatment and rehabilitation programs, if any, provided by such departments or agencies.

(2) *Determination of feasibility.* The Secretary may determine that it is feasible for the applicant to assist the Federal Government in treatment and rehabilitation programs for drug addicts and other persons with drug abuse and other drug dependence problems who are in the catchment area served by the applicant if he finds, on the basis of the information submitted pursuant to paragraph (a)(2) of this section and such other pertinent information as may be available, that:

(i) Existing facilities, qualified staff, and other resources available to the applicant

during the fiscal year in question, either directly or through affiliation agreements and contractual arrangements, are adequate and appropriate for assisting the Federal Government in such drug abuse treatment and rehabilitation programs as may be available for persons who are in the catchment area, or that the applicant has reasonable prospects for obtaining during the fiscal year in question, such additional resources as may be necessary for the provision of such assistance; and

(ii) Utilization of the applicant's existing or anticipated resources for assisting the Federal Government in such drug abuse treatment and rehabilitation programs as may be available for residents of the area would not necessitate curtailment of drug abuse treatment and rehabilitation services provided or to be provided directly by the applicant or curtailment of other mental health services provided or to be provided by the applicant.

(3) *Assurance.* Upon a determination that it is feasible for the applicant to assist the Federal Government in treatment and rehabilitation programs for drug addicts and other persons with drug abuse and other drug dependence problems in accordance with paragraph (c)(2) of this section the Secretary will provide a written notification to the applicant which will briefly state the bases for the Secretary's determination. The notification will be accompanied by a form for providing the required assurance. The applicant shall promptly execute the assurance and return it to the Secretary. The assurance imposes a continuing obligation upon the applicant not to refuse a request from an agency or department of the Federal Government to enter into an agreement under which the applicant's facilities may be used, to the maximum extent practicable, in drug abuse treatment and rehabilitation programs provided by such departments or agencies for persons who are in the catchment area served by the applicant: *Provided, however,* That the Secretary may, upon a written request from the applicant which shall be supported by pertinent information, determine that it is not feasible for the applicant to comply with its assurance in a particular fiscal year or that it is not practicable for the applicant to enter into a specific agreement which has been proposed by a department or agency of the Federal Government.

[39 FR 13780, Apr. 17, 1974]

§ 54.307 Expenditures by applicant.

Any amounts received pursuant to an initial or other grant may be expended by the applicant for compensation of personnel as provided in § 54.303 throughout both the initial grant period and any subsequent grant period with respect to which a request for assistance is approved by the Surgeon General.

§ 54.308 Records, audits and reports.

The applicant shall keep such records as the Surgeon General shall prescribe and as are required by section 408(a) of the Act, and shall make any books, documents, papers, and records of the applicant that are pertinent to assistance under the Act available for audit and examination by representatives of the Surgeon General and the Comptroller General of the United States as required by section 408(b) of the Act. The applicant shall also submit such reports or other information as the Surgeon General may find necessary in administering the provisions of this subpart. [For recipients of staffing grants under section 203(e) of the Community Mental Health Centers Act, this section has been superseded by section 240 of the Act, 42 U.S.C. 2689w, which continues essentially the same requirements as those of section 408 of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 as it was in effect prior to the Amendments of 1975 (Title III of Pub. L. 94-63).]

§ 54.309 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under this subpart:

45 CFR Part 74

Subpart
- A General.
- B Cash Depositories.
- C Bonding and Insurance
- D Retention and Custodial Requirements for Records.
- F Grant-Related Income.
- G Matching and Cost Sharing.
- K Grant Payment Requirements.
- L Budget Revision Procedures.
- M Grant Closeout, Suspension, and Termination.
- Q Cost Principles.

[38 FR 26917, Sept. 19, 1973]

Addendum to Notice of Final Rule

Analysis of Major Comments and Changes—Grants for Community Mental Health Centers

(42 CFR Part 54)

This Addendum identifies and discusses the major changes made in the "Final Rule," "Grants for Community Mental Health Centers" (42 CFR Part 54) since the publication of the "Interim Rule" of June 30, 1976 (41 FR 26906) and the "Proposed Implementation" of November 2, 1976 (41 FR 48242).

Most of these changes are in response to public comment. Others derive from statutory changes made to the Community Mental Health Centers Act by section 308 of the Health Services Extension Act of 1977 (Pub. L. 95-83) or the Community Mental Health Centers Extension Act of 1978 (Pub. L. 95-622). Additional changes derive from the Department's experience in administering the community mental health centers program or are editorial changes.

Subpart A—General Provisions

Section 54.103—How are urban or rural poverty areas designated?

Most of the letters (31 of 42) received in response to the "Interim Rule" were directed at this section. As a consequence, this section of the "Final Rule" has been completely rewritten.

Most comments seemed to assume that section 242 permits continuation of those methods for designating poverty areas which were authorized under section 410 of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963: (1) A broad authority permitting the Secretary to designate areas of urban or rural poverty and (2) a specific mandate to designate as urban or rural poverty areas those catchment areas in which the poverty was located in "subareas."

In contrast to the former Act, section 242 provides *only* a subarea approach.

A number of comments expressed concern about catchment areas not on a list, which the Department developed and shared with States and others, indicating those catchment areas appearing to qualify for designation as urban or rural poverty areas under the "Interim Rule." Subsequent examination of pertinent data indicates that many areas not originally listed meet the statistical criteria needed for designation because there are numerous satisfactory ways in which the term "subarea" may be applied. Satisfactory alternatives include census data for "counties," or "minor civil divisions" or the equivalent "census county divisions," or "tracts," or combinations thereof. Therefore, under the "Final Rule" *applicants* are required to provide information to the Secretary on a case-by-case basis after reviewing those data most pertinent and appropriate to the configuration of their catchment area and its "subareas."

In general, comments led to changes to § 54.103 to provide both more flexibility (within statutory constraints) and clarification of the provisions of this section as follows:

(a) An applicant for an operations grant is required to seek designation of its catchment area as an urban or rural poverty area *only* if the designation will make a difference in the amount of an award.

(b) Data other than that collected in the 1970 decennial census may be considered in the determination of a catchment area's poverty status.

(c) The terms and definitions used in this section are revised to conform to the terms and definitions used in the 1970 decennial census.

One restriction is being added: no area with an overall rate of poverty of less than ten percent will be designated as a poverty area even though it may meet all other requirements in this section.

Section 54.103(c)—Eligibility of Areas

As revised, this section of the "Final Rule" consists of five paragraphs, each of which is discussed below.

Paragraph (c)(1): Mathematically, it would be possible for a catchment area to satisfy the basic test of the "Interim Rule" if it had

an overall rate of poverty no higher than 5.25 percent (the 15 percent poverty rate of the subarea multiplied by 35 percent, its share of the total population of the catchment area). The Department does not believe this is in keeping with the purposes of the poverty area provisions of the Act. Consequently, § 54.103(c)(1) of the "Final Rule" establishes a new requirement, in addition to the basic "15/35" test in that section: the catchment area must have an *overall* rate of poverty of at least 10 percent.

Paragraph (c)(2): In response to many comments this paragraph has been revised to permit any area having a high overall rate of poverty, but unable to meet the basic test (at least 35 percent of the population of the catchment area living in one or more subareas in which at least 15 percent of the population had incomes below the "poverty cutoffs"), an additional opportunity to be designated.

It provides that any catchment area not meeting the basic test may, nevertheless, be eligible for designation as an urban or rural poverty area if (a) it has an *overall* rate of poverty of at least 13.7 percent (13.7 percent is the percent of persons in the 50 States and the District of Columbia with incomes below the poverty cutoffs as determined by the 1970 decennial census) and (b) at least 35 percent of its population live in "subareas" or "divisions of subareas" in which at least 15 percent of the population had incomes below the "poverty cutoffs."

Paragraph (c)(3): There were a number of comments regarding community mental health centers which (a) had been established prior to the enactment of the Community Mental Health Centers Amendments of 1975, (b) were in catchment areas which had been designated as urban or rural poverty areas under authority of the Act as previously in effect and its implementing regulations, and (c) no longer appear to qualify.

Because of statutory and concomitant regulatory differences, not all catchment areas previously designated (or eligible for designation) as urban or rural poverty areas continue to meet the requirements of section 242 and the "Interim Rule." Many such areas have suggested that they be "grandfathered." This is not possible under the terms of section 242. However, § 54.103(c)(3) of the "Final Rule" does authorize these grantees to seek designation on the basis of subareas in poverty using factors other than percent of persons having incomes below the "poverty cutoffs" (such as rates of unemployment and welfare caseloads) to establish that a subarea is in "poverty." This section authorizes them to *seek* designation as an urban or rural poverty area based on additional factors, but does not guarantee a designation.

Paragraph (c)(4): Other comments noted that use of the 1970 decennial census was questionable because of the age of the data and other reasons. The Department is of the opinion that the data used are the best and most recent generally available data that apply uniform criteria and standards to catchment areas in the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico. While many suggestions were received as to other criteria ("unemployment," "cost-of-living," and "energy impact" among others) no uniform data were available for all catchment areas, *let alone subareas.* Thus, except as provided in § 54.103 (c)(3) and (c)(5), the revised regulations continue to be based on the 1970 decennial census.

Paragraph (c)(5): This paragraph has been revised to permit more current data to be substituted for the 1970 data if the more current data (a) are available and contain information based on the same criteria as the 1970 decennial census, (b) apply the "poverty cutoffs" corresponding to the period covered by the more recent data and (c) are for all catchment areas in the State.

Section 54.103(d)—Designation of Areas

While the "Interim Rule" did not differentiate between planning and operations grants, § 54.103(d)(1) of the "Final Rule" pertains only to applicants for operations grants under section 203(a) and provides that the "approved program" must "to a substantial extent serve" the qualifying subarea residents. On the other hand, § 54.103(d)(2) of the "Final Rule" does not require an applicant for a planning grant to "substantially serve" such residents, but only to design a program which would do so.

Prompted by a comment, the Department has concluded that because application for designation of a catchment area as a poverty area and Departmental monitoring responsibilities in relation thereto are significant burdens, designation of a catchment area as an urban or rural poverty area will occur only if such a designation would affect the amount of the grant (§ 54.103(d)(1)(iii) of the "Final Rule").

Other Comments on § 54.103

Some comments suggested that if a catchment area had an overall rate of poverty in excess of fifteen percent, it should be designated as an urban or rural poverty area regardless of the rates of poverty in its "subareas." While these suggestions cannot be implemented because section 242 of the Act provides only for a subarea approach, the Department is unaware of any such catchment area that does not meet the statistical criteria established by the "Final Rule."

Several other comments were on behalf of States in which no catchment area appeared on the list discussed above or in which the proportion of areas appearing to qualify was lower than that obtained under the Act as in effect prior to the enactment of the 1975 amendments. These comments suggested that provision be made for each State to be guaranteed a minimum number of catchment areas qualifying for designation as an urban or rural poverty area. This is not consistent with the requirements of section 242.

Section 54.104—What State plan requirements apply?

Two of the comments concerned § 54.104(b)(2) which provides for modification of catchment area boundaries when population shifts occur beyond the limits established in paragraph (b)(1), but the Secretary may approve exceptions if a "* * * revision is unnecessary or undesirable in carrying out the purposes of the Act." In response to one comment, HEW will not use different criteria in the case of catchment areas having a community mental health center versus those without one. The other comment suggested that criteria be specified to remove any ambiguity concerning the granting of exceptions. Because of widely differing circumstances among States and catchment areas, the Secretary's determination will continue to be based on the purposes of the Act rather than upon regulatory conditions which would not necessarily be appropriate for all catchment areas.

A third comment suggested that HHS require States to consider the establishment of interstate catchment areas where "a community straddles two or more States." Section 54.104(b)(4) of the "Final Rule" continues to permit the creation of these interstate areas. The Department concludes this flexibility is preferable to an absolute requirement.

A fourth comment suggested that special provision be made to involve private self-help organizations in the development, submission, and approval of State plans. The Department encourages such organizations to pursue their interests in accordance with § 54.104(e) but feels that adding specific requirements *favoring* this class of organization over others would be inappropriate.

Section 54.105—What capacity and responsibility must the State agency show?

One comment noted some redundancy in § 54.105(a)(2)(i) and (3) of the "Interim Rule." This redundancy has been eliminated.

Two comments encouraged the Department to take steps to promote awareness of the relationship between the Community Mental Health Centers Act and the National Health Planning and Resources Development Act of 1974 (Pub. L. 93-641) which added title XV to the Public Health Service Act. Two other comments made parallel suggestions concerning the provisions of Circular A-95 of the Office of Management and Budget. The Department agrees with these suggestions.

Thus, § 54.105 of the "Final Rule" includes a new paragraph (d) that requires that the State plan be accompanied by evidence that the State plan has been submitted on a timely basis, to those State and other agencies required to consider it by Federal statute, regulation, or order. A new paragraph (e) has been added requiring the State agency to list those State, local, or other agencies to which the State requires the submission of copies of applications.

A sixth comment suggested retroactive application of the provision requiring a State agency to send applicants (and others) a copy of any comments the agency provides HHS. It would be unreasonable to impose this requirement on State agencies but they are encouraged to supply applicants, at their request, with copies of any prior comments. These comments may be requested from HHS under the Freedom of Information Act (5 U.S.C. 552 *et seq.*) and HHS regulations thereunder (45 CFR Part 5).

Section 54.106—How is application made for a grant under the Community Mental Health Centers Act?

Six public comments led to some changes in § 54.106 of the "Final Rule." Other changes implement statutory amendments made by the Community Mental Health Centers Extension Act of 1978.

One comment suggested that the Health Systems Agencies established under title XV of the Public Health Service Act would be composed in a manner "adverse" to the interests of mental health. While the Department is sensitive to this issue, no change is contemplated in Part 54 of 42 CFR since Part 54 relates only to the Community Mental Health Centers Act and not title XV of the Public Health Service Act. (Final rules relating to the composition of governing bodies of Health Systems Agencies are codified at 42 CFR 122.109.)

A second comment questioned the provisions of § 54.106(b), which allow incorporation by reference and simplified application, insofar as materials originally submitted to one agency may be held by others at a later point in time. Recognizing that, over time, materials may become dispersed, § 54.106(b) of the "Final Rule," provides a three-year limit on materials that may be incorporated by reference or used as a base for indicating changes or additions. Older materials must either be contained in or accompany the application.

Section 54.106(c)(3) of the "Final Rule" requires an applicant to submit information on its status as an entity operated by a governmental agency or hospital if it wishes to establish an advisory committee in lieu of a governing body as permitted under section 201(c)(2) of the Act, as amended by section 104(c)(1) of the Community Mental Health Centers Extension Act of 1978.

The Department is clarifying the provisions of § 54.106(d)(3) by the insertion of the term "each of" in it so as to clearly require specification of the need for each service (in contrast to the need for all services taken together).

In response to public comment, the provisions of § 54.302(a)(2) of the "Proposed Implementation" have been consolidated with those of § 54.106(d)(3) of the "Final Rule." One comment originally directed at that portion of the "Proposed Implementation" indicated difficulty achieving a perfect link between the specific need for services an applicant proposes and needs for services set forth in plans prepared by others. The "Final Rule" makes clear that a perfect link is not necessary and further lessens the burden on applicants by identifying only three kinds of planning documents which must be addressed by the applicant.

However, § 54.106(d)(3) is revised to expand the discussion of differences in needs identified in the State plan approved under the Act and those plans approved by the Statewide Health Coordinating Council including plans established by "* * * any fully designated Health Systems Agency planning for the applicant's catchment area * * *." This change furthers the Department's objective of linking the requirements of the Community Mental Health Centers Act and those of title XV of the Public Health Service Act.

One expressed concern over orientation of § 54.106(f) of the "Interim Rule" entitled, "Evidence of compliance with terms of prior grant," to the last *completed* grant rather than any currently active grant. Changes have been made in accordance with this comment so that under the "Final Rule" the applicant's assurance of compliance must encompass currently active grants.

Section 54.106(f) of the "Final Rule" is a considerably revised version of § 54.106 (f) and (g) of the "Interim Rule" as follows:

(a) Paragraph (f)(1) deals with the review of applications by the applicant's governing body or the advisory committee the applicant may establish in lieu of a governing body as provided under section 201(c)(1) of the Act (as amended by section 104(c)(1) of the Community Mental Health Centers Extension Act of 1978). The Extension Act also added a paragraph (D) to section 206(c)(2) of the Community Mental Health Centers Act to provide for review and approval or disapproval of an application by this advisory committee. Section 54.106(f)(1) of the "Final Rule," in conjunction with § 54.106(c)(3) discussed above, implements this requirement.

(b) The remainder of § 54.106(f) consists of two paragraphs that both simplify the terms and consolidate the requirements of § 54.106 (f) and (g) of the "Interim Rule."

Two commentators suggested the promotion of awareness of the relationship of the Community Mental Health Center Act and that of title XV of the Public Health Service Act (providing for the establishment and designation of Health Systems Agencies which have 60 days in which to review and approve or disapprove any application pertaining to the Agency's health service area). Under § 54.106(g) of the "Final Rule" the applicant is required to show that it submitted copies of its application to three classes of reviewing bodies:

(a) The State mental health agency (see section 206(d) of the Act);

(b) Others specified by the Secretary, including agencies established under (a) title XV of the Public Health Service Act, and (b) Part I of Circular A-95 issued by the Office of Management and Budget; and

(c) others specified by the State agency in its plan approved under section 237 of the Act § 54.105(e) of the "Final Rule."

Section 54.107—What are some general requirements that apply to community mental health centers grants?

Paragraph (a)—Requirements under Section 201(b)(1):

Comments of a General Nature: Several general comments were made regarding this section of the "Proposed Implementation." Some urged additional detail while others sought relief from the level of detail proposed. The Department has considered each of these concerns and suggestions and has determined that no change should be made in response to these comments because the "Final Rule" represents an improvement over the prior regulations and strikes a reasonable balance between specificity and flexibility.

Many comments indicated that the requirements of section 201(b)(1) of the Act and § 54.107(a) of the "Proposed Implementation," added too many new services and implied, directly or indirectly, that these new services were being viewed as separate from one another. No such implication is intended. Section 54.107(a) relates to the nature of the services required by section 201(b)(1) of the Act and not to their organization.

Specific Comments: Many comments were made that relate to one or another of the services required under the Act, most of which were the subject of specific subparagraphs of the "Proposed Implementation." In addition, the sequence and organization of, and certain requirements under section 201(b)(1) of the Act have been changed with the enactment of the Community Mental Health Centers Extension Act of 1978 (Title I of Pub. L. 95-622). This has led to changes in the organization and requirements of § 54.107(a) as follows:

(1) *Inpatient Services:* One comment supported the orientation of § 54.107(a)(1) to "short-term" inpatient care but suggested that the term be defined. The Department concludes this matter is more appropriately discussed in guidelines because the time needed for evaluation and subsequent treatment of a patient may vary depending on the complexity of individual circumstances. Another comment suggested screening services as an explicit regulatory adjunct of the short-term evaluation. This suggestion has not been followed because screening services are already required by the section 201(b)(1)(A)(ii) of the Act (as amended in 1978) and are, additionally, the subject of § 54.107(a)(4) of the "Final Rule." Thus, § 54.107(a)(1) of the "Final Rule" reflects only minor editorial changes.

(2) *Emergency Services:* Four comments were made on § 54.107(a)(4) of the "Proposed Implementation" (§ 54.107(a)(2) of the "Final Rule") regarding emergency services.

One comment indicated general support. Another urged that "expeditious," in the context of "expeditious provision * * * of [emergency] services," be defined. The Department believes it would be very difficult to define "expeditious" uniformly for all situations. The promptness required may vary according to the circumstances but no delay should contribute to a worsening of a person's mental or physical status.

Two other comments questioned the effect of that parenthetical portion of § 54.107(a)(4)(i)(B) of the "Proposed Implementation" which indicated that "(* * * treatment capabilities must include at least the services described in section 201(b)(1) of the Act and these regulations)." The intent of this parenthetical remark was to preclude cursory rejection of any individual from the center (or other entity) or its satellite units simply because his or her emergency condition did not mesh with the specific capabilities of the unit with which contact was first made. For editorial purposes, this parenthetical statement in the "Final Rule" is now introduced by the expression "(the combined treatment capabilities * * *)" to avoid any implication that each satellite unit must include all of the services required by section 201(b)(1) of the Act.

In addition to these changes based upon comments, the Department has, upon review, clarified the provisions (§ 54.107(a)(2) of the "Final Rule") to explicitly require availability of emergency services by telephone and on a face-to-face basis 24 hours each day and, through a new provision (§ 54.107(a)(2)(iv) of the "Final Rule"), that information about this service must be publicized.

(3) *Outpatient Services:* Three comments urged that the requirements for outpatient services be reduced. (These requirements appeared at § 54.107(a)(2) of the "Proposed Implementation" and appear at § 54.107(a)(3) of the "Final Rule.")

One comment misquoted the provision as requiring outpatient services on a regularly scheduled basis of "evenings *and* weekends" (emphasis added). Those services had to be provided on a regularly scheduled basis "evenings *or* weekends" (emphasis added) under the "Proposed Implementation"; the "Final Rule" adds "(or both)" for purposes of clarity. Another comment suggested that the requirement for evening or weekend services be based only on identified need. The Department believes minimal regularly scheduled hours of outpatient services must exist outside of weekdays but permits the applicant to determine when the services will be provided, taking into consideration specifically identified needs.

The "Final Rule" does not require outpatient services *each* evening or *each* weekend. The precise level of all regularly scheduled services should be set after ascertaining the need. At a minimum, some outpatient services must be regularly scheduled to serve those persons who are unable to receive them on weekdays during normal working hours. Another comment asked that the meaning of "full range" be explained. That term was intended to include only those services appropriately provided on an outpatient basis and the rule has been modified accordingly.

(4) *Assistance to Public Agencies:* The provisions of § 54.107(a)(8) of the "Proposed Implementation" (now § 54.107(a)(4)) generated six comments.

Three comments noted the financial burdens that might be imposed if courts or other public agencies were to ask community mental health centers for considerable numbers of screening assessments and other assistance. The regulations do not prohibit the imposition of charges for these services.

A fourth comment suggested broadening the meaning of "State mental health facility" so that the regulatory requirement would include screening of patients being considered for outpatient placements. However, the Act limits the requirement to "* * * screening residents of the center's (or other entity's) catchment area who are being considered for referral to a State mental health facility for *inpatient treatment* * * *" (emphasis added). While the "Final Rule" is consistent with this new statutory provision, no center (or other entity) is precluded from making other screenings so long as it satisfies the basic statutory requirements relating to screening for inpatient services.

In response to another comment, the term "suitability" in the phrase "including consideration of the availability and suitability of less restrictive alternative services," is intended to mean being appropriate to the treatment needs of the patient.

A sixth comment suggested more "active outreach." The Department encourages such outreach but does not intend to establish mandatory levels by regulation.

(5) *Followup Care:* The provisions of § 54.107(a)(9) of the "Proposed Implementation" (now § 54.107(a)(5)) generated seven comments.

Two comments asked for clarification of "mental health facility" as used in the phrase, "provide for maintaining contact with residents of the catchment area who have been discharged from a mental health facility, and assure their access to further services * * *." This term is intended to include any mental health facility located in the catchment area as well as any State mental health facility serving residents of the catchment area.

Two others asked that the regulation require more than "maintaining contact." A fifth found "assure" too strong as it relates to services provided by other than the community mental health center (or other entity), and a sixth suggested a potential for direct conflict between the community mental health center (or other entity) and others providing mental health services in, or for residents of, the catchment area. The seventh comment asked that the expression "discharged" be replaced by "transferred."

In considering these comments and statutory changes noted below, the Department finds it appropriate to modify the provisions as follows:

(a) Section 54.107(a)(5) of the "Final Rule" requires that contact be established and maintained, but only to the extent establishment of contact does not violate confidentiality rules of the discharging mental health facility.

(b) The "Final Rule" newly requires the center (or other entity) to inform those facilities with which direct linkage cannot be achieved because exchange of names would violate confidentiality, of the services the center (or other entity) makes available to a "discharged" patient.

(c) The term "discharged" is maintained in the "Final Rule" because it is used in the Act, and because "transferred" could introduce confusion over the continuing responsibilities of the mental health facility from which the resident is "transferred" *vis-a-vis* those of the community mental health center (or other entity).

(d) Under the 1978 amendments to the Community Mental Health Centers Act the scope of this section is limited to persons discharged "from inpatient treatment" at a mental health facility. The "Final Rule" reflects this change.

(e) Section 54.107(a)(5) of the "Final Rule" reflects removal of the proposed regulatory requirement that the community mental health center (or other entity) "assure" access to health and social services outside the center (or other entity). However, under section 201(b)(2) of the Act, the services of a community mental health center (or other entity) services must—

"* * * be coordinated with the provision of services by other health and social service agencies * * * in or serving residents of the catchment area to insure that persons receiving services through the center (or other entity) have access to all such health and social services as they may require."

(6) *Consultation and Education Services:* Regulations for consultation and education services were not included in the "Proposed Implementation." Nor are they established in the "Final Rule" even though some comments urged this course. The Department continues to feel that the Act (section 201(b)(1)(A)(iv)) provides sufficient detail and will hold applicants and grantees accountable only for those requirements in the Act, other applicable HHS regulations and any further specification provided within a grantee's approved application or the grant award.

(7) *Day Care and Other Partial Hospitalization:* Thirteen comments urged less strict standards for day care and other partial hospitalization services than those appearing in § 54.107(a)(3) of the "Proposed Implementation" (now § 54.107(a)(7)).

Thus, the "Final Rule" calls for "* * * day care and other partial hospitalization services * * * as the Secretary may determine are needed * * *" rather than mandating "overnight and weekend care."

(8) *Specialized Services for Children:* Twelve comments addressed these services (at § 54.107(a)(5) of the "Proposed Implementation" and § 54.107(a)(8) of the "Final Rule").

Five comments urged a requirement that the budget (and other resources) allocated to children be "proportional" to the number of children in the catchment area relative to the total population. Five comments urged requiring a specific "identifiable" administrative or service unit for children such as that section 201(d)(4) of the Act requires for the unit providing consultation and education services. Two urged specific requirements for staff providing children's services. The Department believes that resources should be allocated on the basis of need and, elsewhere in these regulations, so requires (see § 54.302(c)). The Department understands that a separate identifiable unit may be appropriate in some instances but is aware of others where this would not be the case and notes that the regulations neither preclude nor mandate establishment of such a unit.

Others expressed concern over the meaning and scope of § 54.107(a)(5)(i) of the "Proposed Implementation" which would have required the center (or other entity) to add a comparable children's service for each service provided adults. One comment pointed out that services provided at a center might be wholly unrelated to mental health needs of children. The Department does not wish to impose conditions that might require seeking support for specialized services not appropriate for children. Thus, § 54.107(a)(8)(i) of the "Final Rule" excludes any service which is inappropriate for children.

Several other comments questioned whether § 54.107(a)(5)(ii) of the "Proposed Implementation," requiring "readily accessible" services, related to factors other than transportation. The Department intends a broad meaning, including, but not limited

to, the factors of transportation, location, hours of service, and fee schedules. The test is whether the services provided within the center (or other entity) will be "readily accessible." If so, then services need not be provided at locations outside the center. Section 54.107(a)(8)(ii) of the "Final Rule" is modified to more clearly reflect the intent of the Department.

(9) *Specialized Services for the Elderly* (§ 54.107(a)(6) of the "Proposed Implementation"): Two of those commenting on children's services made identical observations on services for the elderly. The Department finds the issues discussed regarding specialized children's services carry over to those for the elderly. Thus, § 54.107(a)(9) of the "Final Rule" reflects changes similar to those discussed regarding children's services in the preceding paragraph.

(10) *Transitional Half-way House Services:* Section 54.107(a)(10) of the "Proposed Implementation" generated three comments. One urged greater specificity. The Department does not wish to limit the alternatives by making the regulations more specific. The second urged that half-way house services be a part of "a continuum of care." The Department sees no need to specify this requirement in this section because requirements applicable to all services of a center (or other entity) provide adequately for their integration.

In response to the third comment § 54.107(a)(10) of the "Final Rule" has been revised to state more clearly the two critical elements, providing sheltered community living arrangements and facilitating the gradual return to the community of those receiving inpatient services.

(11) *Alcoholism and Alcohol Abuse Services* and (12) *Drug Abuse Services:* Sections 54.107(a) (11) and (12) of the "Proposed Implementation" prompted four comments. In response to one comment the Department concurs that these services should not duplicate any service in the community, but does not believe an explicit statement is required since this conclusion is clearly reflected in 201(b)(1)(B)(v) of the Act authorizing the Secretary to waive the provision of these services if certain determinations are made. The other three comments concerned the waiver. One urged that standards for needs assessment be referenced in the regulations. This is being done, on a general basis, by revisions being made to § 54.101. Another urged the same thing but suggested, as an alternative, that the Secretary determine those catchment areas that would need to establish services. This alternative would unacceptably dilute the roles of the community and the State in this assessment. The third asked that the regulations be more explicit with respect to the criteria for waivers. The flexibility offered by not being more specific is perferable because of the varying factual circumstances that will be presented. Therefore, the provisions of § 54.107(a) (11) and (12) of the "Final Rule" reflect only editorial changes.

(13) *Liaison and Diagnostic Services:* One comment asked if these services were intended to be mandated. The answer is that liaison and diagnostic services must under the "Final Rule" be included as appropriate within the services required by section 201(b)(1) of the Act and § 54.107(a) (1) through (12) of these regulations. A second comment suggested that the language and arrangement of § 54.107(a)(13) imply an undesirable "separateness" between diagnosis and treatment. This is not intended. The third comment recognized the overlap of the requirements with "consultation and education" functions and called attention to the implications this has regarding the collection of statistics. Collection of reliable and valid data is important and this point will be considered as plans for statistical procedures are developed. The fourth comment indicated concern that "physical and nutritional assessments" might divert attention away from the primary mental health function. This is not intended nor need it result from the responsibility being imposed. Consequently, the provisions of § 54.107(a)(13) of the "Final Rule" remain unchanged.

Paragraph (b)—Staff Requirements:

One comment of a general nature supported the decision not to set forth detailed requirements regarding "medical director" or "program directors." Two comments suggested specific regulatory criteria for the determination of whether a person is qualified by "training and experience." The Department believes it is not necessary to spell these out by regulation. Guidelines are intended to assist in this regard. The Department also realizes that its emphasis on "services described in section 201(b)(1)" was too narrow. The requirements of section 54.107(b) for qualified staff are, therefore, expanded in the "Final Rule" to include the duties and responsibilities to provide the services and otherwise carry out the approved program of the community mental health center (or other entity).

Paragraph (c)—Requirements under Section 201(c) for a Governing Body or Advisory Committee:

Section 54.107(c) of the "Proposed Implementation" sets forth proposed requirements for applications for grants under the Act to enable the Secretary to determine if the statutory requirements for governing bodies or advisory committees will be met by an applicant.

Of the nineteen comments on § 54.107(c), ten took exception to, or otherwise commented on, requirements of the Act and two indicated a need for technical assistance or consultation. Seven commented on the provisions of § 54.107(c), one of which noted "improvement" from earlier formulations.

In response to several comments urging that conflicts of interest be addressed, § 54.107(c)(2) of the "Final Rule" requires each applicant to describe the procedures it will follow to prevent a conflict of interest from arising in the membership of its governing body or advisory committee, if there is an arrangement for the provision of services involving an organization with which a member of such body or committee is associated.

In response to several comments § 54.302(c)(2) of the "Final Rule" broadens paragraph (c)(2) of the "Proposed Implementation" to require explicit discussion of the relationship of the governing body or advisory committee (and all members thereof) to both the community mental health center (or other entity) *and* others with which the center (or other entity) is related or has arrangements for the provision of services.

Should a governing body not be composed entirely of residents of the catchment area, § 54.107(c)(3) requires an explanation of why this was not "practicable." One comment noted that this section did not mention advisory committees and urged that the same "where practicable" clause found in section 201(c)(1) of the Act carry over to advisory committees. The Act permits only members of the governing body to reside outside the catchment area, and then only rarely in circumstances where residence within the catchment area is not "practicable." An editorial change is made to emphasize that § 54.107(c)(3) applies only if a governing body is not composed "entirely" of residents of the catchment area.

One comment urged specification of the roles of the governing body and advisory committee. Another urged definition of "governing" and "advisory." The Department, noting that many functions are specified in section 210(c) of the Act, does not believe additional regulatory specification would serve a useful purpose.

One person noted that some community mental health centers have "catchment area-wide elections" and asked if a board composed of members so elected would meet the requirements of section 201(c)(1) (A) (i) of the Act amd related regulations. The answer is that election in this manner would not affect a person's ability to meet the statutory requirements. Further study has indicated a need to require a description of how vacancies in the body or committee would be filled. Section 54.107(c)(1) of the "Final Rule" has been revised accordingly.

Some of the comments urged that the regulations indicate the specific alternatives a community mental health center (or other entity) has for meeting the statutory requirements for the arrangement of governing bodies. Since the Department does not wish to limit the way in which a governing body is arranged, it has not followed this suggestion, but will continue to make available guidelines indicating alternatives that might be considered.

Paragraph (d)—Requirements under Section 201(d):

(1) *Quality Assurance Program:* Section 54.107(d)(1) sets forth proposed requirements for a quality assurance program, including utilization and peer review systems. Eight persons commented on its provisions, of which two were expressions of general support.

One person suggested that guidelines on this topic be explicity referenced in the regulations. The Department does not believe this would serve any useful purpose since applicants and grantees are given copies of applicable guidelines. Three persons urged greater specificity of procedures. The Department does not believe that increased specificity, which necessarily decreases flexibility for applicants, would be in the best interest of the program.

One person indicated support for an annual review during the initial years of operation of the quality assurance program required by § 54.107(d), but noted that this could become "too demanding" as the program matures. The Department is sensitive to the burdens being imposed and will consider relaxing this requirement if experience indicates this to be appropriate.

A comment disagreeing with the "reporting requirements" in § 54.107(d)(1) misinterpreted its provisions. They do not require reports to the Secretary but require only the preparation of a written description of the quality assurance program which must be available for examination by the public.

One comment indicated a need to permit either the independent development of the standards and criteria required by § 54.107(d)(1)(iii) or the adoption, with or without modification, of standards developed by others. The Department agrees and has taken steps (discussed below) to make clear that this alternative is permitted.

The foregoing comments contained a common thread: Section 54.107(d)(1) of the "Proposed Implementation" is confusing. Thus, it has been reorganized in the "Final Rule" to present the requirements more clearly. As proposed, this section would have required representation of "* * * all clinical disciplines and service units * * *" However, § 54.107(d)(1) of the "Final Rule" relaxes this somewhat and requires the composition of the committee (or committees) overseeing the quality assurance program to be composed of "* * * all disciplines * * * involved to a substantial extent in the delivery of services * * *"

One modification responds to the comment on adoption of standards and criteria developed by others. A second modified the provisions regarding dissemination of findings to indicate that the privacy of patients, staff and other providers of services must be safeguarded.

(2) *Integrated Medical Records System:* Seven persons submitted comments responding to proposed § 54.107(d)(2). Two of these supported the inclusion of "drug use profiles" in the medical records system. One of these two indicated support of a "pharmacist's patient drug profile." The provisions of this section do not require—but would certainly allow—a pharmacist to construct the profile. Another offered detailed substitute language which would, if accepted, have mandated a separate administrative unit and a "Registered Medical Records Administrator," together with specific provisions regarding confidentiality of records. The Department concludes that adoption of this substitute language would be undesirably restrictive but notes, again, that the provisions of this section do not preclude an applicant's following these recommendations.

One commentator asked if the medical records system would have to be located, in whole or in part, at some central location. The rules do not prescribe the location (or locations). Another urged that the rules be less "in-patient oriented and better adapted for out-patient needs which may not be based on a medical model." The Department believes the rules are appropriate for outpatient and nonmedical models.

One commentator asked if the Department would consider adopting rules regarding confidentiality of patient records in programs supported by grants and noted that the House Interstate and Foreign Commerce Committee urged the Department to adopt rules similar to those of 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records. While no change is made in § 54.107(d)(2) of the "Final Rule" in response to this comment, the Department will consider it in conjunction with its ongoing review of confidentiality requirements.

Another commentator asked why the rules would require the files to be "indexed by the patient's name." The Department feels such an arrangement to be essential to the smooth operation of a record system, particularly in emergencies. However, it has been determined that the files need not be organized by the patient's name but rather that the patient's name should be sufficient to locate the records. Consequently, the "Final Rule" is revised to require that records be organized "so as to be retrievable by use of, among other things, the patient's name."

In reviewing the provisions of § 54.107(d)(2), the Department concluded that the integrated medical records system should (a) be described in a document which is available for examination and (b) include an "individualized treatment plan." Section 54.107(d)(2) of the "Final Rule" reflects these modifications. Requiring a description of the system to be prepared in writing and made available for examination neither imposes a routine reporting requirement nor requires specific HHS action to approve the system.

(3) *Professional Advisory Board:* Section 54.107(d)(3) establishes rules governing the membership of the professional advisory board, but otherwise imposes no specific provisions beyond those contained in the Act. Five persons addressed this aspect of the "Proposed Implementation."

Two commentators asked for additional regulatory detail on the membership. The intent of the Act is to ensure representation of all staff and service units, but not necessarily direct representation of each and every one of them. Consequently, § 54.107(d)(3) of the "Final Rule," in parallel with similar requirements in § 54.107(d)(1), is revised to require "representation of all disciplines of the center * * * involved to a substantial extent in the delivery of services * * *."

Others asked to whom the board reported and one urged that the reporting required be limited to reporting to the director of the center (or other entity). Section 201(d)(3) of the Act requiring the professional advisory board to advise the "governing board" would not permit regulations restricting the professional advisory board to advising the director. However, the Department concludes that the professional advisory board's advice may flow to the governing board either directly, or through the director. If its advice is provided through the director, provision must be made for forwarding any advice with which the director disagrees. Consequently, § 54.107(d)(2) of the "Final Rule" reflects these changes.

Another urged representation on the professional advisory board of those providing services for children. The Department does not believe this to be necessary given the requirement in § 54.107(d)(3) of the "Final Rule" for representation of "all professional disciplines * * * involved to a substantial extent in the delivery of services * * *."

Paragraph (e)—Budget, statistical, and other information, and costs of evaluation under Section 206 of the Act.

Section 54.107(e)(1) of the "Final Rule" specifies that applicants must provide certain budget, statistical, and other information required under section 206 of the Act. The "Final Rule" reduces overlap between the previous version of this section (as set forth in the "Proposed Implementation") and 45 CFR Part 74.

Section 54.107(e)(2) of the "Final Rule" limits those costs that may be allocated to the program of continuing evaluation to which section 206 requires each center (or other entity) to dedicate two percent of its costs of operation. The "Proposed Implementation" would have allowed charging the cost of "substantial" modification of an existing information system so as to serve these needs, but disallowed charging the costs of "operation, maintenance, or insubstantial modification." Eight persons commented on this section, and the "Final Rule" now includes information on the purposes of this activity. The former distinction between "substantial" and "insubstantial modification" is eliminated; the "Final Rule" allows charging those costs associated with the "initial modification" but not those of an "ongoing" nature (however, costs of ongoing modification may be included among the general "costs of operation" for which grants may be made under the Act, and this is stated in the "Final Rule.")

Section 54.106 of the "Interim Rule"—Special Requirments as to Fiscal Control and Records

The Department has determined that this section of the "Interim Rule" duplicated 45 CFR Part 74. Thus, it is revoked and a new § 54.106, described below is added.

Section 54.106 of the "Final Rule"—How is the grant awarded, its amount determined, and a final accounting made?

The Department's experience with the Community Mental Health Centers Act since the enactment of the Community Mental Health Centers Amendments of 1975 (title III of Pub. L. 94-63, enacted July 29, 1975) indicates a substantial need to inform the grantee community of how each grant under the Act is awarded, its amount determined, and a final accounting made. In addition, changes affecting the computation of the grant amount made by the Community Mental Health Centers Extension Act of 1978 (title I of Pub. L. 95-622, enacted November 9, 1978) need to be clarified.

Thus, § 54.106 of the "Final Rule" provides this information and further provides that grant awards under sections 203 (for initial operation and staffing) and 204 (for consultation and education services) of the Act are made provisionally, subject to downward adjustment. At the end of the grant period, the amount of these awards is

recomputed based on actual costs or costs of operation and actual income. If the amount of the grant awarded and paid provisionally exceeds the amount of the grant as it has been recomputed, the amount of this excess must be returned to the Federal Government for (a) each section 203 grant made to an entity eligible to receive a grant under the same section of the Act in the succeeding year to the extent that the amount of this excess has been generated because the entity's total income was greater than projected; and (b) each section 204 grant.

This limitation on the amount of the grant award reflects requirements in the current Act that the amount of certain initial operation and staffing and all consultation and education grants must be limited to the amount calculated on an actual basis even though the grant amount is initially determined on a projected basis. (A Notice of Proposed Rulemaking proposing to expand the provisional award, downward adjustment, and settlement provisions of § 54.108 to include the remaining initial operation and staffing grants (under section 203), conversion grants (under section 205), and financial distress grants (under section 211) appears in the Federal Register immediately following this "Final Rule.") Section 54.108 also sets forth final accounting procedures for all grants awarded under the Act.

In addition, § 54.108(d)(2) of the "Final Rule" sets forth, as provided by statute: (a) The authority for grantees to carry over amounts unobligated from prior operations or staffing grants to the period of the next succeeding grant; and (b) the authority for entities awarded operations or staffing grants to retain limited funds for specific purposes, including the possibility of having a "financial reserve."

Section 54.110—What are some additional requirements that apply?

Although no comments were received on § 54.110 of the "Interim Rule," it is being totally revised to:

(a) Inform grantees of other HHS regulations that apply to grants under this part.

(b) Notify grantees of Appendix B of these regulations. Appendix B reprints those regulations issued under the authority of the Mental Retardation and Community Mental Health Centers Construction Act of 1963 that impose continuing programmatic obligations on recipients of construction grants awarded, or staffing grants initially awarded, under the authority of the Act prior to the enactment of the Community Mental Health Centers Amendments of 1975 (title III of Pub. L. 94-63, enacted July 29, 1975).

(c) Provide for the coordination of mental health, alcoholism and alcohol abuse, and drug abuse programs. Under the terms of this section, the Department indicates it will not make any award under the Act unless the applicant assures it will "* * * undertake to develop and maintain * * * relationships and arrangements * * *" with those entities providing, in the catchment area, alcoholism and alcohol abuse, and drug abuse, services.

(d) Stipulate that no grant will be awarded under the Act unless the application meets, and the applicant has met, the requirements of the Act and regulations.

(e) Indicate one role of the National Advisory Mental Health Council and set forth the authority of the Secretary to establish grant conditions.

Subpart B—Grants for Planning Community Mental Health Center Programs

Subpart B sets forth regulations governing grants for planning community mental health center programs under section 202 of the Act.

One comment indicated general support, and another indicated support of the provision of § 54.202(b) allowing the award of planning grants to entities in catchment areas in which an entity received an "initiation and development grant" under section 224(b) of the Act as it was in effect before July 29, 1975, but urged a prohibition on awarding any planning grant to an entity which received such a grant but did not establish a community mental health center. The Department does not believe regulatory limitations are needed since the capabilities of all applicants for grants under the Act are routinely examined. The Department could not ignore the history of an entity with prior grants that were not successful—but notes that not all "Initiation and Development" grants were expected to lead to the establishment of a community mental health center.

Subpart C—Grants for Initial Operation or Staffing

Subpart C establishes specific regulatory provisions for operations and staffing grants under section 203 of the Act. Twenty-eight comments were submitted many of which concerned more than one subsection. Fourteen commented on the provisions of § 54.302(b)(1) requiring the designation of a staff member to be the "director" and the qualifications needed for that role. Fifteen persons commented on the related provisions of § 54.302(b)(2) concerning designation of certain other staff members to be "primarily" responsible for planning and providing, or arranging for the provision of, each of five services (services for children, services for the elderly, consultation and education services, alcoholism and alcohol abuse services, and drug abuse services). Thirteen comments concerned other parts of § 54.302.

Section 54.301—To whom does this subpart of the regulations apply?

Section 54.301 of the "Final Rule" is revised in accord with the changes affecting eligibility for operations and staffing grants under section 203 (a) and (e) of the Act as amended in 1978.

Section 54.302—How is application made for grants for initial operation or staffing?

Paragraph (a): One comment suggested that the provisions of paragraph (a)(1), which require a description of each of the services to be provided, be combined with the provisions of paragraph (f), relating to the accessibility of these services. Because the two are very much related, § 54.302(a)(1) of the "Final Rule" combines these paragraphs of the "Proposed Implementation" with necessary editorial adjustments.

In addition, to implement the 1978 amendments, § 54.302(a)(1) of the "Final Rule" requires an applicant to justify any proposal it makes to have its inpatient, emergency, or half-way house services (or any combination thereof) provided outside its catchment area.

One person questioned the statutory basis of the requirement in § 54.302(a)(3) of the "Proposed Implementation" for services to be "added" during the period of the grant and the following year. The basis is section 203(a)(1)(B) of the Act. Another person urged regulatory clarification of the conditions under which the waivers mentioned in proposed § 54.302(a)(4) would be granted for the alcohol abuse and drug abuse services required by section 201(b)(1)(B)(v) of the Act. The Department believes that the guidelines which it has issued in this regard are sufficient.

Paragraph (b): This paragraph pertains to the staff an applicant proposes to enable it to provide the services and administer its program. One comment urged elimination of the requirement for a "justification of the assignments and organization." The Department does not agree because it feels such a justification is critical to the evaluation of the quality of the application and the proposed program. Nor does the Department agree with a suggestion to limit the percentage of staff employed on other than a full-time basis since resources available to catchment areas vary too much.

Paragraph (b)(1): Fourteen persons commented on the provisions of this paragraph which, in part, proposed to require an applicant to provide for a "director" employed on a full-time basis primarily for the purpose of directing the program. Many comments were generally supportive but offered specific advice. Some urged more specific regulatory standards to supersede what were characterized as inadequate State laws. Several suggested restricting the director to one of several specific mental health disciplines. One person suggested that the position go only to a "licensed" professional. While the Department does not believe such specificity or limitations should be established by regulation, the provisions relating to qualifications have been modified to some extent by requiring that the director must be qualified in "one of the fields of mental health" or "health or mental health administration."

While this provision of the "Final Rule" would allow a health administrator to be director, other provisions mandate that the person be qualified by training and experience and establish that some of the experience must be in a mental health setting. Thus, a health administrator must have experience in a mental health setting. Conversely, mental health professionals must have administrative experience.

Other commentators raised questions on the relationship between the director and the governing body. The Department does not believe it is desirable to issue detailed regulations on this point but believes the relationship should be direct; § 54.302(b)(1) of the "Final Rule" provides for this.

Several other comments questioned the meaning of the requirement that the director

serve "primarily" for that purpose. Some urged that a specific percentage of time replace "primarily." The term "primarily" has been retained in the "Final Rule" so as to (1) provide some flexibility for the director to perform other duties or provide specific services, but (2) preclude the director from carrying out any other duties requiring the majority of his or her attention.

Paragraph (b)(2): Fifteen comments were received on the provisions of this paragraph which require an applicant to have separate persons responsible for matters associated with each of five specific services (services for children, services for the elderly, consultation and education services, alcoholism and alcohol abuse services, and drug abuse services).

Several comments urged that the regulations require a "director" of each of these five services. While a program may structure itself in such a fashion, under the overall direction of the director required by § 54.302(b)(1) of the "Final Rule," such a requirement is not imposed because it would not be appropriate in all settings. Also because of the diversity of circumstances programs face, the Department does not believe it would be appropriate to implement a suggestion for a "separate administrative unit" for each of these services, except as required by the Act for consultation and education services.

Others indicated they wanted to combine the responsibilites of these five staff members in one fashion or another. The Department acknowledges that this might be appropriate in a few extreme circumstances and notes the regulations provide an exception for "good cause" which would permit such combinations. However, the Department feels such exceptions should be granted only rarely.

The Department rejects the suggestion of one commentator who urged that staffing levels for children's services be no less in proportion to overall staff than the proportion of children to the total population of the catchment area.

Paragraph (c): One comment urged that the requirement for information on the projected costs of operation and related matters associated with each of the five specialized services be expanded to all twelve services. The Department does not believe this is necessary. Similarly, the Department does not feel it desirable to require, as one person suggested, specific information about the direct and indirect costs within each service. While such information may be requested in some cases, the Department sees no need to impose this as a general requirement.

Several comments focused on the paragraph (c)(2) requirement for a special explanation from any applicant allotting less than 60 percent of its expenditures to salaries and related benefits. One urged the 60 percent test be absolute, with no exceptions; another took an opposite view and urged no test at all. The Department retains the 60 percent test as proposed because it believes that percentage is one below which programs may experience difficulty; the Department, however, does not want to impose an absolute limit.

Review of the provisions of paragraph (c)(3) of the "Proposed Implementation" indicated that its limitation to the costs of services supported by "grants under the Act" was too narrow as programs may have been supported previously without assistance under the Act. Consequently, the provisions of § 54.302(c)(3) of the "Final Rule" eliminate this limiting reference.

Paragraphs (h) through (o): Section 54.302(h) of the "Proposed Implementation" required an applicant for an operations or staffing grant to describe the procedure it would follow in order to meet statutory requirements relating to planning, budgeting, and statistical activities. While one commentator suggested that such a description would be excessive, the Department does not contemplate a description so detailed as to be onerous.

Section 54.302(i) of the "Proposed Implementation" implemented the statutory requirement for each applicant to submit "long range plans for the expansion of [its] program * * *" by imposing a flat 5-year planning requirement. Because operations and staffing grants may be made over an 8-year period, the Department is revising this provision in § 54.302(h) of the "Final Rule" to be the longer of 5 years or the number of years of eligibility remaining.

The Act requires applicants to provide bilingual staff if the catchment area includes a "substantial proportion of individuals of limited English-speaking ability." Section 54.302(k) of the "Proposed Implementation" would have permitted a waiver of the bilingual staff requirement (but not the service responsibility) for any population group constituting "less than 5 percent" of the population of the catchment area *and* "less than 3,500 persons." This dual requirement discriminates against applicants serving less-populous catchment areas such as those that exist in many rural areas. Moreover, the 3,500 test is approximately double the national ratio of population to full-time-equivalent staff. Although no comments were submitted on this point, the Department believes that a single simple test (more in line with national norms) would be appropriate and has revised § 54.302(j) of the "Final Rule" to eliminate the "5 percent" test and reduce the 3,500 test to 2,500.

A comment indicated a need for clarification of the organizational relationships among the governing body (or advisory committee), director and certain other specified staff when such arrangements exist or are proposed. Consequently, § 54.302(k) of the "Final Rule" mandates a description of the organizational relationships between (1) the applicant, the governing body or advisory committee, the director and other specified staff and (2) each entity or person with which these arrangements are made.

Section 54.302(o) is added to the "Final Rule" to limit the number of the requirements of § 54.302 which are imposed on any application for the continuation of a children's staffing grant initially awarded under section 271 of the Act (as in effect before July 29, 1975) in response to the statutory changes made by section 110(b) of the Community Mental Health Centers Extension Act of 1978.

Subpart D—Grants for Consultation and Education Services

Subpart D of the regulations establishes specific requirements for consultation and education grants under section 204 of the Act.

One comment urged that the § 54.402 (a) and (b)(1) list of those to be consulted regarding "needs of a catchment area for consultation and education services" include specific reference to those providing children's services. The Department does not find this necessary since the emphasis is on "appropriate" consultations and since the existing list (which is on a "such as" basis and is merely suggestive) concludes "* * * and other appropriate community agencies and organizations * * *"—an expression that includes those providing children's services and many others.

Subpart E—Conversion Grants

Subpart E of the regulations establishes specific requirements for "conversion" grants under section 206 of the Act to assist community mental health centers (and certain other entities) in adding services now required by the Act.

One person questioned why many general statutory requirements, including those deriving from section 206 of the Act, were not made applicable to conversion grants. These general statutory requirements do apply to conversion grants. However, the specific information necessary to meet the statutory requirements is already required under either Subpart C or Subpart F which relate to those grants for which an approved application is a prerequisite to the award of a conversion grant.

A second person asked if requirements of § 54.502(f), relating to needs assessment, might not duplicate requirements for other such assessments (see § 54.106(d)(3)). The intent of § 54.502(f) is to differentiate those services to be supported under the conversion grant from those to be supported otherwise. If this requirement is redundant in practice, it may be satisfied by incorporating appropriate information and materials by reference (see § 54.106(b)).

The Department is revising § 54.503 of the "Final Rule" to require that not only must an application for a conversion grant be filed at the same time as an application for a grant under section 203 or 211, but also that the application periods must coincide. Section 54.503 continues to permit relief from either or both of these requirements for good cause.

Subpart F—Financial Distress Grants

Subpart F of the "Final Rule" establishes specific requirements for financial distress grants under section 211 of the Act. One person commented on this subpart, noting the lack of specific information on how the funds being requested would be utilized. This is discussed below under § 54.603.

Section 54.602—Who is eligible to apply for a financial distress grant?

Section 54.602(b) of the "Proposed Implementation" requires that applications for financial distress grants under section 211 of the Act be filed within two years of the applicant's completion of support under section 203 (a) or (e). This provision is

retained in the "Final Rule" but with an allowance for filing at the later-of two dates: November 1, 1980 or two years after the period of support under section 203 (a) or (e) is completed. The proposed deadline for filing within two years would also have applied to those entities wich completed either years of support from staffing grants made under section 220 of the Act as in effect before July 29, 1975; that filing deadline is changed to November 1, 1980.

Section 54.603—How is application made for a financial distress grant?

In response to a comment noting the lack of specific information on how funds requested would be utilized, the "Final Rule" requires this information through a new paragraph (c). (This new provision parallels a similar one at § 54.302(c) of the "Final Rule" relating to operations and staffing grants.)

Appendix B

The "Final Rule" reprints as Appendix B many of the provisions of Subpart C and Subpart D of 42 CFR Part 54 as they appeared before June 30, 1976, the effective date of the "Interim Rule." The provisions of the reprinted subparts are those remaining applicable to, and imposing continuing programmatic obligations upon, recipients of construction grants awarded, and staffing grants initially awarded, from appropriations made under the authority of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 as it was in effect prior to the enactment (on July 29, 1975) of the Community Mental Health Centers Amendments of 1975 (Title III of Pub. L. 94-63). This reprinting is in response to public requests that the Department continue to make these obligations clear to both these grantees and the public at large.

It is to be noted that construction and staffing grant recipients may have obligations other than those in the regulations reprinted in this appendix imposed upon them through the authorizing legislation, through the terms and conditions of previous construction or staffing grant awards, or through the conditions applicable to other grants awarded to them under the Community Mental Health Centers Act.

[FR Doc. 80-21404 Filed 7-17-80; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 54

Grants for Community Mental Health Centers; Provisional Nature of Amounts of Initial Operation and Staffing, Conversion, and Financial Distress Grants Under the Community Mental Health Centers Act

AGENCY: Public Health Service, Department of Health and Human Services.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the provisional grant award, downward adjustment, and settlement provisions of 42 CFR 54.108 as published in the Federal Register immediately preceding this Notice to include all initial operation and staffing grants (under section 203 of the Act), conversion grants (under section 205), and grants for financial distress (under section 211). After public comments are received in response to this Notice and consideration of them, the Assistant Secretary for Health and Surgeon General may, with the approval of the Secretary, promulgate these proposed rules as final regulations govening the Community Mental Health Centers programs.

DATES: Comments must be received on or before September 2, 1980.

ADDRESS: Submit comments to: Lindsley Williams, Director, Office of Program Development and Analysis, National Institutes of Mental Health, 5600 Fishers Lane, Room 17–C–17, Rockville, Maryland 20857.

Comments will be available for public inspection at the above location between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except for Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lindsley Williams, Telephone: (301) 443–3175.

SUPPLEMENTARY INFORMATION: As a result of experience in implementing the Community Mental Health Centers Act since the enactment of the Community Mental Health Centers Act Amendments of 1975 (Title III of Pub. L. 94–63, enacted July 29, 1975), the Department of Health and Human Services proposes to make the amounts of all initial operation and staffing, conversion, and financial distress grants awarded, respectively, under sections 203, 205, and 211 of the Act provisional and subject to downward adjustment and settlement at the end of the grant based upon actual costs and actual income. The Act and the regulations promulgated thereunder (published in the Federal Register immediately preceding this Notice on July 18, 1980) already require this for grants for initial operation and staffing (under section 203) awarded to those entities eligible to receive a grant under the same section of the Act in the succeeding year that have generated an excess because their total income was greater than projected and all grants for consultation and education (under section 204).

The Department believes it should administer the entire program of grants under the Act on an equivalent basis, simplify administrative requirements for the management of the program, and promote sound grant awards under the Act. This will help grantees and the Department alike avoid potential problems that may occur when different definitions and procedures apply to separately authorized programs that operate simultaneously. Thus, the Department proposes to expand § 54.108 of the regulations, which makes grant awards provisional subject to later downward adjustment and settlement based upon actual, rather than projected, income and costs, to include all initial operation and staffing grants (under section 203 of the Act), conversion grants (under section 205) and financial distress grants (under section 211) while continuing the applicability of that section to consultation and education grants (under section 204 of the Act).

Dated: May 5, 1980.

Charles Miller,

Acting Assistant Secretary for Health.

Approved: July 1, 1980.

Patricia Roberts Harris,

Secretary.

It is proposed to revise paragraphs (b), (c), and (d) of 42 CFR 54.108 (as revised by the "Final Rule" published in the Federal Register immediately preceding this Notice on July 18, 1980 to read as follows:

§ 54.108 How is the grant awarded its amount determined and a final accounting made?

* * * * *

(b) *General.* (1) The notice of grant award specifies how long the Secretary intends to support the project without requiring the project to recompete for funds. This period, called the project period, will usually be for one to eight years.

(2) Generally the grant will initially be for one year and subsequent continuation awards will also be for one year at a time. A grantee must submit a separate application to have the support continued for each subsequent year. Decisions regarding continuation awards and the funding level of such awards will be made after consideration of such factors as the grantee's progress and management practices, and the availability of funds. In all cases, continuation awards require a determination by the Secretary that continued funding is in the best interest of the Federal Government.

(3) Neither the approval of any application nor the award of any grant commits or obligates the United States in any way to make any additional, supplemental continuation, or other award with respect to any approved application or portion of any approved application.

(4) The amount awarded under section 203, 204, 205, or 211 of the Act is provisional and is subject to downward adjustment as provided in paragraphs (c) and (d) of this section. The award of any provisional amount constitutes an obligation of the Federal funds which are available for that purpose on the date of the award.

(c) *Provisional grant award.* The amount of any grant award under section 203, 204, 205, or 211 of the Act which is computed at the time of the grant award on the basis of projected income, and projected costs or projected costs of operation (whichever is applicable), is provisional and will be recomputed (and adjusted downward as required) after the conclusion of the budget period of the grant by the Secretary as follows:

(1) For sections 203(a), 203(e), 205, or 211 of the Act, the amount of the operating deficit referred to in sections 203(c), 302(e)(1), 205(b)(2), and 212(d) of the Act, respectively, will be recomputed on the basis of actual, rather than projected, amounts.

(2) For section 204 of the Act, the amounts referred to in section 204(b) of the Act will be recomputed on the basis of actual, rather than projected, amounts.

(d) *Settlement and accounting.* (1) After the end of each budget period of each grant under section 202, 203, 204, 205, or 211 of the Act, the grantee must:

(i) Within 90 days provided the Secretary with an accounting (subject to audit by the Secretary) of all income, funds received under the Act, and costs or costs of operation (whichever is applicable), of the approved program.

(ii) Except as permitted under § 54.108(d)(2)(i) and (ii), return to the Federal Government in the manner directed by the Secretary—

(A) For each section 203, 205, or 211 grant, any amount by which the amount of the grant awarded provisionally under paragraph (c) of this section exceeds the amount of that grant as recomputed under paragraph (c)(1) of this section;

(B) For each section 204 grant, any amount by which the amount of the grant awarded provisionally under paragraph (c) of this section exceeds the amount of that grant as recomputed under paragraph (c)(2);

(C) For each grant awarded under section 202 of the Act, any amount which remains unobligated; and

(D) For each grant awarded under section 202, 203, 204, 205, or 211 of the Act, any amount which has been obligated for costs or costs of operation (whichever is applicable) unallowable under the Act and the provisions of this part.

(2)(i) The recipient of an operations or staffing grant under section 203(a) or (e) of the Act may retain an amount, not exceeding the percentage (specified, respectively, in section 203(c) and (e)(1) of the Act) of the amount which it is required to return to the Federal Government under section 54.108d(1)(ii)(A), as the recipient can demonstrate to the satisfaction of the Secretary will be used for the purposes set forth, respectively, in clauses (ii)(I) through (V) of the last sentence of section 203(c) of the Act and in clauses (I) through (V) of the last sentence of section 203(e)(1) of the Act. Amounts so retained do not constitute income in the period of any subsequent grant but must be identified in the accounting records.

(ii) The recipient of any operations or staffing grant under section 203(a) or (e) of the Act which, at the end of any budget period, has not obligated all of the funds awarded for that period (exclusive of any funds retained under paragraph (d)(2)(i) of this section), may use those unobligated funds as part of an operations or staffing grant, respectively, awarded it in the succeeding year. The amount of the new funds awarded under the grant in the succeeding year will be reduced by the amount of the unobligated funds which are carried over from the preceding year.

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Federal Register

Friday
July 18, 1980

Part V

Environmental Protection Agency

Acrylamide: Response to the Intergency Testing Committee; Exemption from Test Rules, Proposed Statement of Policy and Procedures; Chloromethane and Chlorinated Benzenes Proposed Test Rule, Proposed Health Effects Standards Amended

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[OPTS 47003: FRL 1495-8a]

Acrylamide: Response to the Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice and requests for comments.

SUMMARY: Section 4(e) of the Toxic Substances Control Act (TSCA) established an Interagency Testing Committee (ITC) to recommend to the Administrator of the Environmental Protection Agency (EPA) a list of chemical substances and mixtures to be considered for testing. In a first revision that was transmitted to EPA on April 10, 1978 (43 FR 16684), the ITC added eight chemical substances and mixtures, including acrylamide, to its original list (42 FR 55026) published on October 12, 1977. This action prompted EPA to review and evaluate available data on the health effects of acrylamide, particularly its neurotoxicity. In view of evidence that the induction of neurotoxicity (central-peripheral axonopathies) is a consistent effect of the exposure of humans and several animal species to acrylamide, the Agency is not proposing a Section 4(a) rule to require further effects testing of acrylamide. The EPA is seeking public comment on this matter.

DATES: Written comments must be submitted on or before October 31, 1980. EPA will hold a public meeting for this rule on September 24, 1980, in Washington, D.C. The exact time and place will be announced in a future Federal Register notice. For further information on arranging to speak at the September general meeting or arranging a special meeting, see the public meeting section under "Supplementary Information."

ADDRESS: Written views and comments should bear the document control number 80T-127, and should be submitted to: Document Control Officer, Chemical Information Division, (TS-793), Room 447, Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

A Support Document, which presents the scientific and regulatory rationale for the Agency's decision concerning the health effects of acrylamide, is available to the public from the Industry Assistance Office, Office of Pesticides and Toxic Substances (TS-799), Environmental Protection Agency, 401 M St. SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Director, Industry Assistance Office, Office of Pesticides and Toxic Substances (TS-799), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460, Toll-free: 800-424-9065; In Washington, DC, please call 554-1404.

SUPPLEMENTARY INFORMATION:

I. Background

Section 4(e) of TSCA [Sec. 4(a); 90 Stat. 2003; (15 U.S.C. 2601 et seq.)] established an Interagency Testing Committee (ITC) to recommend to EPA a list of chemicals to be considered for the promulgation of testing rules uder Section 4(a) of the Act. The ITC may designate up to 50 of its recommendations at any one time for priority consideration by EPA. TSCA requires EPA to respond to such designations within 12 months of the date they are made, either by initiating rulemaking under Section 4(a) or publishing in the Federal Register reasons for not initiating rulemaking.

The ITC designated acrylamide for testing in April 1978 (43 FR 16684), recommending that it be tested for carcinogenic, mutagenic, teratogenic and environmental effects and that an epidemiologic study be performed. The recommendations were based on (1) the possible entry of this highly water-soluble compound into surface water and groundwater as a result of its wide use as a chemical grout and that of its polymers in municipal and industrial wastewater treatment, paper strengthening and retention, and various other applications; (2) the severe neurotoxicity of acrylamide, which raises the possibility that other serious effects might result from long-term, low-level exposure; and (3) the potential exposure of about 20,000 workers to acrylamide during its manufacture, processing, use, and disposal and the potential widespread exposure of the general population via release of the compound to the environment.

In a notice published in the Federal Register on May 14, 1979 (44 FR 28095), EPA responded to the ITC recommendations explaining its reasons for not initiating rulemaking proceedings on acrylamide within 12 months of its designation by the ITC. The Agency stated that it had not yet fully evaluated the ITC recommendations or proposed test standards that would need to be included in any test rule and indicated that it would either propose testing subsequently or publish its decision not to require testing. Since that time, a federal court ruled that EPA's response was legally inadequate. *Natural Resources Defense Council v. Costle*, 79 Civ. 2411 (S.D.N.Y., February 4, 1980). Hence, this notice of EPA's tentative decision is intended to serve as EPA's response under Section 4(e) of TSCA to the ITC designation of acrylamide for health effects testing. EPA is not publishing a final decision at this time because it believes public comment on the policy underlying its decision would be useful.

II. Assessment of Acrylamide's Toxicity

EPA has completed its review of the health effects of acrylamide, basing its evaluation on the following, publicly available material: (1) the ITC dossier and its references, (2) studies and reports identified by an EPA supplementary literature search, (3) public comments submitted in response to publication of the notice in the Federal Register on April 10, 1978 (43 FR 16684) which was a revision of ITC's original list, (4) materials supplied by acrylamide manufacturers, and (5) a contract report prepared for the Agency by the Midwest Research Institute (MRI).

The MRI Report (Conway et al. 1979) evaluated studies related to mutagenicity, teratogenicity, carcinogenicity, as well as neurotoxicity and other health effects. EPA, having reviewed MRI's work and a report by Shiraishi (1978) discussing chromosomal aberrations from acrylamide exposure, has focused its more detailed evaluation upon the relatively well-characterized neurotoxic properties of this compound in reaching its tentative decision discussed below.

It has been found that acrylamide is neurotoxic, producing peripheral axonopathies (Spencer and Schaumburg 1976). The animal species in which this effect was demonstrated include rats (Edwards 1975, Fullerton and Barnes 1966, Hashimoto and Aldridge 1970, Suzuki and Pfaff 1973), mice (Bradley and Asbury 1970), cats (McCollister et al. 1964, Kuperman 1958, Leswing and Ribelin 1969, Schaumburg et al. 1974), dogs (Hamblin 1956, Thomann et al. 1974), baboons (Hopkins 1970), and monkeys (McCollister et al. 1964). In addition, there are at least 48 published cases of the occupational toxicity and 5 cases of the nonoccupational toxicity of acrylamide to humans (NIOSH 1976, U.S. EPA 1976, Conway et al. 1979), many of whom manifested a measurable degree of neurotoxicity (central-peripheral axonopathy).

In humans, the predominant signs of neurotoxicity are related to peripheral

nerve involvement and, to a lesser extent, central nervous system involvement. A variety of other signs and symptoms also are generally reported, the most common ones occurring in the skin, hands, and feet. The onset of effects is delayed following initial exposure, and the effects may be reversible, although this is not always the case.

Based on laboratory data, EPA has concluded that acrylamide is a potent neurotoxicant at very low levels. This conclusion has been substantiated by a 1-year (oral administration) study in cats indicating a no-effect level of 0.3–1.0 mg/kg/day.

III. Tentative Decision Not To Require Testing

EPA does not plan to require the health effects testing recommended by the ITC. Instead, EPA plans to evaluate acrylamide for possible regulatory controls.

As previously stated, acrylamide causes significant neurological effects at very low levels. Thus, it is likely that any control adopted on the basis of acrylamide's neurotoxicity will provide a considerable degree of protection from other potential health hazards. Under such circumstances, the Agency does not believe it is in the public interest to perform a complete assessment of nonneurological effects. Rather, EPA believes that its rulemaking activities should be devoted to more pressing testing needs concerning chemicals about which much less is known. Thus, EPA has not conducted an in-depth evaluation of other health effects and does not plan to require testing for them.

EPA recognizes that in rejecting the alternative to require testing for effects which are not fully characterized, it is leaving gaps in the toxicity data base the Agency is trying to create. As a result, EPA may in some cases fail to reduce the risk of a health hazard to the extent it could if the effect were fully characterized.

This is particularly true where the oncogenicity risk has not been evaluated. However, as discussed below, Dow Chemical Company plans to conduct oncogenicity testing. Thus, EPA believes that, as a matter of priorities and resource allocations, the Agency should not develop a test rule for acrylamide to resolve remaining issues about its toxicity but instead should seek data on chemicals for which the need for data is greater.

EPA will reevaluate this decision if Dow fails to recommence the anticipated testing. Dow had started a 2-year chronic toxicity oncogenicity study using CDF Fischer 344 rats in June 1979. Doses of 0.01–2 mg/kg/day were administered orally. Because of unexpected difficulties in maintaining the proper dose levels, however, Dow terminated the study as of February 1980. EPA understands that Dow will resume the testing shortly. Although the proposed Dow study does not fully satisfy EPA's test standards for these studies, i.e., one rodent species will be used, EPA anticipates that it will provide useful information concerning toxic effects other than neurotoxicity.

The Agency also is aware that a functional neurologic study in primates is under way at the University of Rochester sponsored by Dow Chemical Company and other chemical manufacturers. This study may provide information that will allow the "no-effect level" for the general population to be determined more precisely.

For these various reasons, EPA believes that additional testing resources should not be expended at this time to evaluate the health effects of acrylamide. EPA will initiate a preregulatory assessment of acrylamide based upon existing toxicity data.

EPA solicits comments on its proposed rationale, as applied to acrylamide specifically and as a precedent for the future. In particular, EPA wishes comments on its plan to limit its own assessment of a chemical's overall toxicity and to refrain from requiring testing where (1) one effect is already well established, and (2) possible control measures are likely to reduce significantly the risk from other effects.

IV. Environmental Effects

The environmental effects of acrylamide have not been evaluated completely. Its high water solubility, known toxicity to mammals, and possible slow degradation rate under certain environmental conditions (e.g., low temperatures or low oxygen levels) indicate that the compound may pose a hazard upon its release to the environment. If, after a complete analysis of available data, the Agency feels that there is insufficient information regarding the chemical fate or ecotoxicological effects of acrylamide to make an adequate hazard evaluation, it will then propose additional testing of acrylamide under Section 4(a). A separate Support Document addressing the environmental release and effects of acrylamide is forthcoming.

V. Public Meetings

EPA will hold a general public meeting on September 24, 1980, in Washington, D.C. to provide the public an opportunity to present comments and questions on the notice as required by Section 4(b)(5) to EPA officials who are directly responsible for developing the rule and supporting analyses. The public meeting will start with a short summary by EPA of the proposed rules and will be followed by oral presentations from the floor. A time limit of 15 minutes per person, company, or organization may be imposed depending upon the number of requests. EPA will allot speaking times in advance of the meeting on a first-come basis, although the Agency reserves the right to alter the order depending upon the nature of the particular comments and other relevant factors. For the benefit of all concerned, EPA encourages the elimination of redundant comments. If time permits, following these prepared presentations, EPA will receive any other comments from the floor. Presenters are invited, but not required, to submit copies of their statements on the day of the meeting. All such written materials will become a part of EPA's record for this rulemaking. In addition, the Agency will transcribe each meeting and will include the written transcripts in the public record. The exact location and time of this meeting will be announced later in the Federal Register and the press.

In addition to the general public meeting, EPA personnel responsible for developing these proposals will be available at EPA's discretion to meet in public sessions at EPA in Washington, D.C., during the 105 day comment period, with interested persons from individual companies, trade associations, organized labor and citizen organizations to discuss these proposals. EPA encourages using special request meetings for discussing technical data and implementation issues. However, persons should plan to present their views at the general meeting to ensure their opportunity for comment since special meetings will be held only when EPA believes that the subject is more appropriately discussed in a special format than in a general meeting. EPA will provide facilities and make other necessary arrangements for such meetings. The Agency will make transcripts or summaries of the meetings for inclusion in the official public record. While these meetings will be open to the public, active participation will be limited to those requesting the session and designated EPA participants.

Persons who wish to present comments at the September 24, 1980 general meeting should contact EPA no later than September 12, 1980 by calling toll-free 800–424–9065 (in Washington, D.C. call 554–1404), or by writing to the address listed at the beginning of this

notice under "For Further Information Contact". Persons wishing to arrange a special meeting should follow the same procedure.

VI. Public Record

EPA has established a public record for this rulemaking (docket number 80T–127) which is available for inspection in the OPTS Reading Room from 9:00 a.m. to 5:00 p.m. on working days (447 East Tower, 401 M Street, S.W., Washington, D.C. 20460). This record includes basic information considered by the Agency in developing this proposal. The Agency will supplement the record with additional information as it is received. The record includes the following information.

1. Federal Register notices pertaining to this rule

a. Proposed Notice, Acrylamide: Response to the Interagency Testing Committee (ITC).

b. Notice of the ITC's designation of Acrylamide to the Priority List.

c. Notice containing EPA's response to the ITC designation of Acrylamide to the Priority List.

d. Notice of rule proposed under Section 8(d) requiring submission of health and safety information.

e. Notice of rule proposed under Section 8(a) of TSCA requiring submission of production and exposure-related data.

f. Cross reference to docket 80T–126.

2. Support Documents. a. Acrylamide Support Document.

3. Drafts released to public before proposal.

4. Minutes of informal public participation meetings (See this section of docket number 80T–126).

5. Communications.

a. Written: Public and Intraagency or Interagency Memorandum and Comments.

b. Telephone conversations.

c. Meetings.

8. Reports—Published and Unpublished Materials.

a. Health effects and exposure references.

b. Articles reviewed but not referenced.

VII. Related Actions

EPA is proposing the first health effects test rules under Section 4(a) of TSCA in a separate notice in today's Federal Register.

Dated: July 1, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80–21563 Filed 7–17–80; 8:45 am]

BILLING CODE 6560–01–M

40 CFR PART 770

[OPTS 47001:FR 1495–8b]

Exemptions From Test Rules; Proposd Statement of Policy and Procedures

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing policies and procedures by which manufacturers and processors subject to testing required under Section 4(a) of the Toxic Substances Control Act may apply for exemptions from testing. These exemption policies and procedures are being proposed to prevent duplicative testing under the test rules issued by EPA under Section 4 of TSCA.

DATES: Written comments must be submitted on or before October 31, 1980. EPA will hold a pulic meeting for this rule on September 24, 1980 in Washington, D.C. The exact time and place will be announced in a future Federal Register notice. For further information on arranging to speak at the September general meeting or arranging a special meeting see the public meeting section under Supplementary Information.

ADDRESS: Written views and comments should bear the document control number 80T–125, and should be submitted to: Document Control Officer, Chemical Information Division (TS–793), Room 447, Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Director, Industry Assistance Office, Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Toll Free 800–424–9065, Washington, DC 554–1404.

SUPPLEMENTARY INFORMATION:

Introduction

This notice proposes the general framework, policies, and procedures for consideration of all applications for exemptions from the test rules issued by the Environmental Protection Agency (EPA) under Section 4(a) of the Toxic Substances Control Act (TSCA, Pub. L. 94–469, 90 Stat. 2003, 15 U.S.C. 2601 *et seq.).* This statement of exemption policy and procedures is proposed to be generally applicable unless notice is given to the contrary in specific test rules.

Section 4 of TSCA authorizes the Administrator of EPA to require manufacturers (including importers) and/or processors of chemical substances and mixtures to test the chemicals in accordance with applicable EPA test rules to generate data from which the effects on health and the environment of the manufacture, distribution in commerce, processing, use, or disposal of such chemicals can be determined. Section 4(a)(1)(A) requires EPA to issue test rules upon the finding that any of these activities *may* present an unreasonable risk of injury to health or the environment, that there are insufficient data to reasonably determine or predict the impact of the activities on health or the environment, and that testing is necessary to generate the needed data. Section 4(a)(1)(B) imposes the same conditions except that the requirement may be based on a finding that the substance or mixture is or will be manufactured in substantial quantities, and the probability of significant or substantial human exposure or entry into the environment in substantial quantities, as opposed to being based on a finding of potential unreasonable risk.

In recognition of the costs of such testing, the Congress sought to reduce unnecessarily duplicative testing by providing that any person subject to a test rule may apply to the Administrator for an exemption from the rule (Section 4(c)(1)). The exemption must be granted if the Administrator determines that the chemical substance or mixture manufactured or processed by the applicant is equivalent to a chemical substance or mixture for which test data have been submitted or are being developed and that submission by the applicant of Section 4 test data on such substance or mixture would be duplicative (Section 4(c)(2)). To provide for equitable sharing of the cost of developing the Section 4 test data, Congress required that persons who are granted an exemption must reimburse those persons who developed or are developing test data and those who helped or are helping finance the testing (Sections 4(c)(3) and 4(c)(4)). The Act also provides that two or more persons may designate one of themselves or a qualified third party to conduct testing and submit data on their behalf (Section 4(b)(3)(A)).

A manufacturer or processor of chemicals may choose to satisfy its obligation to comply with a test rule in one of three ways: (1) test the chemical itself or contract to have it tested, (2) jointly sponsor tests of the chemical, or (3) obtain an exemption from testing from EPA and reimburse the sponsors of the test. Firms may be expected to make different choices among these options

depending upon individual circumstances.

Individual testing, whether performed by the sponsor or by a third party under contract to the sponsor, may be attractive for large firms when timeliness is particularly important or when a firm desires to maintain its relationship to a particular chemical confidential. Occasionally, individual testing may also be appropriate if a particular manufacturer's or processor's product is uniquely different from the products of other firms manufacturing or processing the chemical. Individual testing may carry with it greater financial risks and costs than the other options. It will not generally be clear when a firm begins testing what portion of the testing costs will ultimately be reimbursed. Even if the amount of reimbursement is satsifactory, the sponsoring firm may need to tie up its funds until reimbursement is made—a period that may span several years.

Joint sponsorship of testing offers numerous advantages over the first option. Firms can work out the cost-sharing formula in advance of any commitment of funds so that each can estimate in advance what the testing will cost it. Such firms do not have to submit individual exemption applications under Section 4(c); however EPA must follow the same criteria in approving joint sponsorship arrangements under Section 4(b)(3)(A). Joint sponsorship also avoids having one firm tie up large amounts of its funds in testing costs until reimbursement is made. Flexible arrangements can be worked out with respect to early data acquisition and study direction so that all participants have a voice in how the study is conducted. Also, the cost of compliance for the participating firms can be reduced because only one firm needs to have extensive contact with EPA.

Finally, exemptions complement the other alternatives in that a manufacturer or processor who does not wish to "go it alone" but is not part of a joint testing program potentially can obtain an exemption from testing and reimburse the sponsor of the tests. Reimbursements can be negotiated privately between the parties in the same manner as joint testing agreements, or they may be the result of the application of EPA rules providing for fair and equitable reimbursement See EPA's Advance Notice of Proposed Rulemaking concerning testing reimbursement published in the Federal Register of September 19, 1979 (44 FR 54284). However, in contrast to joint sponsorship arrangements, a person with an exemption generally has no voice in how a study is conducted.

Because TSCA provides that all persons who are granted an exemption must reimburse the sponsors of the tests (on which the exemption is based) and all persons who may have contributed to the costs of that testing, exemption policy will have a significant impact on reimbursement policy. In general, EPA will attempt to reduce the number of complex reimbursement cases under TSCA that are referred to the Agency for decision by adopting exemption policies that encourage joint sponsorship of testing. Examples include making information on planned testing available through the Industry Assistance Office and granting manufacturers an opportunity to withdraw exemption requests in order to participate in joint testing.

EPA has attempted to formulate exemption policies and procedures that will not unduly burden either industry or EPA. Although EPA will not actively match exemption applicants with test sponsors or actively play a role in joint test group formation, EPA will encourage joint test group formation by making available data, within the limits prescribed by 40 CFR Part 2 and Section 14 of TSCA pertaining to disclosure, concerning who is planning to test and who has submitted test data. Joint testing is a resource efficient means of complying with Section 4 test rules.

EPA is proposing this exemption policy not just to relieve the industry of the costs of duplicative testing, however. It will also serve to help maximize the efficient utilization of the nation's limited toxicological testing resources. If all manufacturers and processors of a chemical were individually to test their products in response to a Section 4 test rule, test facilities could rapidly become saturated with testing programs that would produce redundant information. The result would be that EPA would be delayed in requiring testing of other chemicals meeting the criteria of Section 4(a) and industry would be delayed in performing necessary testing of other products. This situation clearly would be detrimental to the environment and the public health of the American people and be contrary to the intention of Section 4 to test those substances and mixtures that may present an unreasonable risk or which result in substantial or significant exposure.

Finally, in the course of commenting on the Advance Notice of Proposed Rulemaking (ANPR) on Reimbursement, which was published in the Federal Register on September 19, 1979 (44 FR 54284), the Chemical Manufacturers Association (CMA) commented extensively on exemptions. EPA has not had the opportunity to analyze CMA's comments before developing this proposal but will carefully review them prior to preparation of the final exemption policy notice. As appropriate, EPA will solicit further comment or hold meetings on anticipated changes to this notice and proposed rule. CMA's comments have been included as part of the public record of this rulemaking.

Requirements for an Exemption

Section 4(c) of TSCA, which is the statutory basis for granting an exemption, states:

> If, upon receipt of an application [for an exemption] * * * the Administrator determines that—
>
> (A) the chemical substance or mixture with respect to which such application was submitted is equivalent to a chemical substance on mixture for which data has been submitted to the Administrator in accordance with a rule under subsection (a) [of TSCA] or for which data is being developed pursuant to such a rule, and
>
> (B) submission of data by the applicant on such substance or mixture would be duplicative of data which has been submitted to the Administrator in accordance with such rule or which is being developed pursuant to such rule,
>
> the Administrator shall exempt, in accordance with [the reimbursement provisions in] paragraph (3) or (4), the applicant from conducting tests and submitting data on such substance or mixture under the rule with respect to which such application was submitted." [Section 4(c)(2) Pub. L. 94-469, 90 Stat. 2006, 15 U.S.C. 2603(c)(2).]

TSCA defines a *chemical substance* as any organic or inorganic substance of a particular molecular identity including—(i) any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature, and (ii) any element or uncombined radical. [Section 3(2) Pub. L. 94-469, 90 Stat. 2004, 15 U.S.C. 2602 (2)].

The act excludes from the definition of substance mixtures (as defined by TSCA), tobacco and tobacco products (but not derivative products), nuclear materials and byproducts, firearms and ammunition, and pesticides, food, food additives, drugs, cosmetics or devices, when manufactured, processed or distributed in commerce as a pesticide, food, etc.

A *mixture* is defined by the Act as

> any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction; except that such term does include any combination which occurs, in whole or in part, as a result of a chemical reaction if none of the chemical substances comprising the combination is a

new chemical substance and if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined. [Section 3(8) Pub. L. 94-469, 90 Stat. 2004, 15 U.S.C. 2602 (8).]

Because these definitions differ somewhat from common usage, it is worthwhile to offer a few clarifying comments. First, TSCA's definition of mixture is a great deal more restrictive than the chemist's definition. TSCA defines mixtures to mean only formulary mixtures, that is, a combination of substances created by the deliberate mixing of two or more substances, or a combination of substances that could be produced commercially by mixing two or more substances. Such mixtures are distinguished by TSCA from other materials because they are not subject to the manufacturing and processing notices for new chemical substances under Section 5 of the Act and because special findings are required before testing of them may be required under Section 4(a) or before they can be subject to rules under Section 8(a). Second, all materials that are not mixtures or are not excluded by Section 3(2)(B) of TSCA are "substances". A substance may be a single pure compound, a single compound plus its impurities, or a combination of substances with their impurities. Thus, for example, under normal circumstances a combination of several isomers formed from the reaction of two pure chemical compounds is classed according to TSCA as a chemical substance, as would be the isomers which make it up.

Equivalence

The term "equivalence" is not defined by TSCA, although its legislative history gives some insight as to what Congress intended in using this term.

> In making this determination [of equivalence] the conferees expect the Administrator to look at any contaminants in the chemical substance or mixture for which an exemption is being sought and ascertain whether any contaminants present might cause differences in test data which would be significant and which would, therefore, cause the Administrator to determine that the chemical substances or mixtures in that instance were not equivalent. [H.R. No. 94-1679 94th Cong., 2d Sess., 9/23/76, pp 1, Legis. Hist. 674.]

A contaminant may be an additive (discussed below) or an "impurity", which is defined in the chemical inventory regulations as "a chemical substance which is unintentionally present with another chemical substance" [40 CFR 710.2(m)]. This is the same definition as will be used under Section 4. There are many sources of impurities including:

(1) Unreacted starting material,

(2) A contaminant in the starting material which persists in or gives rise to by-products in the reaction product,

(3) A contaminant in/on the reaction vessel or other equipment,

(4) By-products formed from the starting material or intermediate by competing reactions,

(5) Chemical substances formed during storage, and

(6) Chemical substances formed by reaction with environmental factors (air, water, sunlight).

Additives are substances that are intentionally added to a chemical substance to improve its stability or impart some other desirable quality. A substance becomes a mixture when it is combined with an additive so long as no chemical reaction takes place. Mixtures, including commercial chemicals which contain additives, are discussed later in this notice.

Substances. Chemical substances are marketed in a variety of grades differing chiefly by the number and amount of contaminants which range from highly pure grades such as spectral or reagent grades to one or more technical grades. In determining what chemical form to prescribe for testing, EPA will employ a case-by-case determination. EPA wishes chemicals to be tested that are representative of a broad range of products which contain the chemicals and their exposure situations. To test separately the thousands of individual products containing a commercial chemical would be prohibitively costly, time consuming, and unnecessary. Depending upon such considerations as the number, nature, and variability of the components in a technical grade chemical, the nature of the test, and what is known about the toxicity of each component, EPA may require testing of either: (1) one or more technical grade chemicals, (2) a purified grade, or (3) a technical or purified grade and one or more impurities or additives.

EPA is proposing that, unless there is evidence to the contrary, the Agency will consider one test substance to be representative of all forms of the substance subject to the test rule. In such cases the issue of equivalency as it relates to exemptions would be essentially moot. This is because the test substance and all other forms of the chemical are by definition considered to be equivalent. Thus in this case, there is no reason for an exemption applicant (hereinafter "applicant") to demonstrate the equivalence of its technical grade chemical and the test substance.

However, if the Agency requires testing of a technical grade substance and has information leading to (1) specific concerns about the effects of impurities or additives (such concern may be due to the toxicity of impurities or suspected synergism, additive effects, etc.) and (2) that the impurities or additives may differ significantly from one grade of a chemical to another, EPA is proposing to require applicants to demonstrate to EPA that their technical grade chemicals are equivalent to the test substance. EPA is interpreting "equivalence" in the sense that one or more test substances are considered representative of, or a proxy for, another in the series of required tests. EPA is proposing that claims of equivalence be substantiated by chemical analysis data, manufacturing or processing data, or biological test data, as appropriate, and that the burden of demonstrating equivalence rest on the applicant. EPA will determine in each test rule under 40 CFR 773 whether special concerns regarding impurities exist and whether applicants must submit equivalence data. EPA's proposed policy regarding the application process, denial of an exemption, reapplication and appeal are discussed in a subsequent section of this notice.

A manufacturer or processor could respond to a determination that its substance is not equivalent to the test substance by either testing its substance in full compliance with the section 4 test rule or by changing the manufacturing process, supplier of starting materials, etc. so as to eliminate the differences between its substance and the material tested.

Mixtures. Numerous product formulations exist which are mixtures of substances. Pure or technical grade chemicals that are stabilized by additives are mixtures under TSCA. In mixtures, the component which may pose an unreasonable risk of injury to health or the environment may be the most abundant component, or it may be present in small quantities.

In order to require testing of a mixture rather than its components, EPA must made the finding under Section 4(a)(2) of TSCA that the environmental and health effects resulting from the manufacture, use, etc, of the mixture "may not be reasonably and more efficiently be determined or predicted by testing the chemical substances which comprise the mixture." Thus, depending upon individual circumstances and the finding made by EPA, EPA may evaluate a mixture by requiring testing of (1) one or more pure substances comprising the mixture, (2) one or more technical grade

substances comprising the mixture, or (3) the mixture itself.

EPA is proposing that the principles established in the previous section for substances apply to the components of mixtures. Thus, if no special determination regarding impurities is made by EPA, there would be no issue of equivalency for exemption for processors or formulators of product mixtures. If such a determination is made, then an applicant would be required to show that the technical grade chemicals or the mixtures tested are equivalent to the technical grade chemicals comprising the applicant's product or the applicant's mixture, respectively. As was proposed for substances, EPA proposes to make determinations of equivalence on the basis of chemical or biological data submitted by the applicants.

Categories. Section 26(c) of TSCA states that "Any action authorized or required to be taken by the Administrator under any provision of this Act with respect to a chemical substance or mixture may be taken by the Administrator in accordance with that provision with respect to a category of chemical substances or mixtures."

EPA may issue a test rule covering a category of substances or mixtures when it believes that a number of chemicals share some significant common characteristics such as similar chemical and biological behavior and the Section 4(a) statutory criteria (See the preamble of the test rule published in today's Federal Register). Categories may be closed (containing a finite number of specified chemicals) or open (containing a potentially infinite number of chemicals) and may contain both new and existing chemicals.

The following discussion pertains to structure-based categories. Exemption policies for other types of categories will be proposed in a future rulemaking. As explained in the preamble to today's test rule, EPA is proposing to generally require testing of only a portion of the members of a structure-based category due to the expense of testing and the limited number of test facilities and personnel compared with the number of chemicals that need characterization. Therefore, EPA generally intends to select some chemicals from such a category for initial testing based on exposure and structure or structure/activity considerations.

EPA recognizes that test rules for categories of chemicals raise a number of complex issues. For this reason, EPA is proposing one approach and describing several alternatives for exemptions and reimbursements for structure-based categories to obtain a wide range of comments on these issues. EPA may adopt any of the three approaches or variation thereof in the final rule. These three approaches by no means exhaust the possibilities, but illustrate fairly distinct options among a spectrum of alternatives.

The "whole category" approach which is being proposed for the chlorinated benzenes emphasizes the characterization of the category. In this approach manufacturers and processors of members of the category woul not be responsible for testing the individual compounds which they manufacture or process but would be jointly responsible instead for testing a sample which EPA has selected as representative of the category. To illustrate this concept, if there were a category of seven compounds (1, 2, 3, 4, 5, 6, 7) which EPA believes could be adequately characterized by testing only four of the seven compounds, EPA would require that all manufacturers and processors of the seven chemicals bear equal responsibility for testing compounds 1, 3, 5, and 7. The Section 4(a) statutory finding would be made for the entire category.

Equivalence of the sample and other category members would be assumed by EPA in proposing such a test rule. This equivalence would not be on a one-to-one basis as it is for individual chemicals, such as where the manufacturers of chemical 1 assert equivalency based on the data developed on chemical 2. Rather, the sample as a whole would be considered representative of the category on the hypothesis that test results on the sample can be used to evaluate the chemicals which comprise the category. Equivalency may not exist between individual members of the category but the sample would be expected to provide sufficient data to evaluate the category as a whole.

This "whole category" approach to testing does not discriminate between manufacturers and processors whose chemicals are tested and those whose chemicals are not. Unlike Alternative 1 discussed below, the responsibility for actually funding testing falls equally on both during the course of the testing. Industry could respond to such a test rule by dividing the testing among themselves. Each firm would then apply for an exemption for those portions of the testing which it did not perform and reimburse the sponsors of such tests. A second and probably preferable response would be to form a consortium for joint sponsorship of testing.

This proposed approach is perhaps the best alternative when the hypothesis that the category can be characterized by the sample holds. However, if this hypothesis does not hold, this approach may present considerable administrative difficulties. If chemicals 1, 3, 5, and 7 do not give results that could be extrapolated to chemicals 2, 4, and 6, manufacturers and processors of chemicals 2, 4, and 6 most likely would be reluctant to share the cost of testing chemicals 1, 3, 5, and 7. However, to permit or require a refund to manufacturers and processors of 2, 4, and 6, EPA would have to require manufacturers and processors of 1, 3, 5, and 7 to reimburse the manufacturers and processors of 2, 4, and 6 for the money they already received. As a consequence, the costs to manufacturers and processors of 1, 3, 5 and 7 would be higher than they had originally anticipated.

EPA would also have to decide whether to require testing of any or all untested category members. If the category no longer held together from the standpoint of health or environmental effects, EPA most likely would amend the rule to treat category members as individual chemicals for purposes of both existing and new testing requirements under Section 4(a), exemptions, and reimbursement.

An alternative approach (Alternative 1) would require testing of all category members but would specify that such testing be done in two or more stages with the chemicals selected for the sample designated for testing in the first stage. In this alternative, each manufacturer or processor of a chemical in the sample is responsible for testing his own chemical. The Section 4(a) findings would again be made for the entire category. And, as in the proposed approach, the criteria for sampling would be based primarily on the potential that the designated chemicals would be structurally representative of the whole category. The category members not in the sample would be tested in the subsequent stages if the test results from the first stage could not be used to characterize the remaining category members. EPA would write the test rule in such a way that the requirement to conduct the second stage of testing would take effect automatically a specified number of months after the date from the first group were received. At that point, manufacturers and processors of the untested members of the category would obtain exemptions and reimburse those who conducted the first round of tests, or, if the data could not be extrapolated to the untested members, conduct their own testing.

To illustrate, if there were seven members in the category, and the first sample consisted of chemicals 1, 3, 5 and 7, producers of chemical 1 would pay for the testing of chemical 1, procedures of chemical 3 for 3 and so forth. If the data from those tests were then used as a basis for granting exemptions to chemicals 2, 4, and 6, producers of 1, 3, 5 and 7 would be partially reimbursed for their costs at that time. Reimbursement would be based on sharing of all costs among the manufacturers and processors of all chemicals.

This approach simplifies the reimbursement process by avoiding the redistribution of funds that would be provided for in the proposed approach if the category were not characterized by the test sample. However, there are disadvantages to this approach as well. First, this approach does not accurately express EPA's intentions with respect to testing categories in a majority of circumstances. EPA does not generally intend to test all members of a category, even when the category is not characterized by the test sample, because EPA believes the public is better served by testing a wider range of chemicals than exhaustively characterizing a number of closely related substances. Second, this approach is inapplicable to large or open-ended categories. EPA could not actually require for testing of all members in such categories due to the immense resources required. (Open categories are potentially infinite in size even though the number of known category members is finite.) Finally, the simpler reimbursement that this option offers results in a disadvantage to those manufacturers and processors who are required to test in the first stage because they receive no reimbursement from the other manufacturers and processors in the category until the end of testing. On the other hand, persons sponsoring the initial testing do not have an automatic entitlement to reimbursement; they are responsible for testing their own chemicals and receive reimbursement from producers of chemicals 2, 4, and 6, only if the data described from the first stage prove to be relevant to 2, 4, and 6.

A variant that would avoid the latter problem would be to require testing of chemicals 1 through 7 in a single stage, with each manufacturer or processor responsible for testing his own chemical, but to grant conditional exemptions to producers of chemicals 2, 4, and 6 that could be revoked if the data from 1, 3, 5, and 7 could not be extrapolated to 2, 4, and 6. Persons would be required to provide reimbursement on the basis of the conditional exemption. However, if the data from 1, 3, 5, and 7 could not be used to characterize 2, 4, and 6, this variant would entail the same administrative problems concerning reallocation of money as the approach EPA is proposing.

Alternative 2 to testing categories lies at the other end of the spectrum from the proposed approach. In this approach the chemicals may be analyzed as a category for determining potential hazard or risk, but are tested as individual chemicals. The Section 4(a)(1)(A) findings are made only for the chemicals to be tested.

Using this approach, if EPA believed that laboratory or economic resources should not be expended on testing the whole category, EPA would again choose a smaller number of chemicals to be tested. However, the emphasis in choosing them would be on those likely to pose the greatest risk, and not on the chemicals that were most likely to provide data representative of the category. Primary emphasis would be given to testing the chemicals suspected of the highest toxicity or produced in the greatest quantities or resulting in the most exposure. However, consideration of structural representation of the category may influence the sample, particularly if there were a choice between testing two of the most high-exposure (risk) chemicals and one was considered to be more representative of the category.

If chemicals 1, 3, 5, and 7 were the ones selected for testing, only manufacturers and processors of those chemicals would be subjected to the rule and required to test. Manufacturers and processors of 1 would share the cost of testing only 1. While persons producing chemicals 2, 4, and 6 would not be required to test or reimburse producers of chemicals 1, 3, 5, and 7, this would be chosen for testing primarily or solely on their own merit, and not as a representative sample of 1, 2, 3, 4, 5, 6, and 7. While the data produced from chemicals 1, 3, 5, and 7 may be relevant to evaluating 2, 4, and 6 and would be evaluated in that light as well, the operating presumption would be that 1, 3, 5, and 7 would be tested as individuals, and that any additional benefit to be gained from them as "representatives" would be useful but not central to their selection for testing.

As advantage of this approach is its administrative simplicity. Further, it would assure that those chemicals which warrant the most concern are tested. A disadvantage is that less information may be gained about the category as a whole because of the deemphasis on choosing a sample that would be "representative." The emphasis on testing individuals would likely make it harder to have an effective link between section 4 and the premanufacturing notification requirements of section 5 of TSCA, although EPA could pursue such options as defining criteria specifying when other existing or new chemicals in the chemical group would be tested.

In conclusion, there are clearly many factors that will bear upon the selection of the final approach. Among the most important considerations will be the following: (1) how the section 4 findings, the category definition, and the choice of test substance interact, (2) how to maximize the amount of information obtained for the lowest cost, (3) concern for financial equity: who pays for the testing and at what point in time, (4) how to minimize the administrative problems of reallocating money, and whether the rule will need to be amended if exemptions are revoked or if money is to be rallocated, and (5) the degree to which a sample may be representative of the category.

Certain provisions could be implemented with any approach to address potential inequities or other problems. For instance, a provision could be attached to the proposed option to limit a manufacturer's or a processor's testing costs so that he would pay no more than the amount that would be paid if testing were required on an individual chemical basis. This could be addressed in the reimbursement rule.

EPA is requesting comments on each of these alternatives.

Duplicative data

The other finding that EPA must make to grant an exemption is that submission of data by the applicant would be duplicative of data which have been submitted or which are being developed.

From a technical standpoint this is a complex issue. The results of toxicological testing are sensitive to a large number of variables besides the precise chemical species. Such variables include the dose and route of its administration, and the species, strain, age, sex and state of health of the animals. Although the EPA test standards and good laboratory practice standards attempt to minimize the variance due to the above factors, significant test variance may still remain.

EPA believes that one properly designed and executed study will normally provide a sufficient basis for making regulatory decisions. Thus, EPA is proposing that as long as the test substances are equivalent, EPA will

consider all tests meeting its standards to be duplicative of each other. This is not to say that all tests designed to meet the standards will be the same, or that the data produced would be identical—that would be highly unlikely. Rather, additional tests would be duplicative in the sense that there would be duplicative compliance with the test rule. However, if a test does not appear to be in compliance with the test rule and standard, EPA may be unable to conclude that further testing would be duplicative.

The Exemption Process

Study Plans

An exemption can be granted either on the basis of data previously submitted to EPA or on the basis of knowledge that test data are being developed. Exemptions based on prospective data may be terminated if satisfactory data are not developed. [Section 4(c)(4)(B), 15 U.S.C. 2603(c)(4)(B)]. To permit the granting of exemptions prospectively, EPA is requiring the submission of Study Plans from test sponsors so that it can have some assurance that testing is being initiated and will be likely to conform to required standards or procedures. (See Section III.F. of preamble to test rule for further discussion of this point.) In addition, the study plan requirement will give other persons subject to the rule the knowledge that another firm is sponsoring tests and information of the test methodology. Through the Industry Assistance Office, EPA plans to make study plans available to the public within the limits prescribed by Section 14 of TSCA pertaining to disclosure of confidential data in order to assist other members of the industry in applying for exemptions or in forming joint testing groups.

EPA has already proposed study plan requirements in certain of the proposed long-term health effects test standards (chronic, oncogenic, reproductive effects). Persons planning to test a chemical substance or mixture for those effects would be required to submit a Study Plan 90 days before starting the tests (44 FR 27338, 27347, May 9, 1979; 44 FR 44090, July 26, 1979). EPA did not propose study plan requirements for the other health effects in the belief that there was less utility to advance review of study plans for short-term test. However, EPA now believes that exemption needs make it necessary to require study plans for all effects; but, unlike the requirements for chronic and reproductive effects to submit a study plan 90 days before the initiation of testing, study plans for all other health effects covered in the July, 1979 proposal may be submitted when testing actually begins.

EPA has also concluded that the study plans need to contain additional information to meet EPA's needs in the exemption area. As proposed previously, the study plan would include the identity of sponsors, the study protocol, rationale for species and strain selection, data on the sponsors manufactured substance (if applicable), dose selection, route of exposure, data on the test substance, schedule for testing and reporting data, and other related information (44 FR 27349, May 9, 1979). EPA now proposes to add the following requirements:

(1) identification of the test rule, (2) in the case of joint sponsorship, the identity of the principal sponsor and other sponsors, (3) where applicable, a description of the culture medium and its source, and (4) for test rules which require submission of equivalence data for exemptions, (a) an attestation that the substance manufactured or processed is equivalent to the test substance and (b) information on the process by which the test substance was manufactured. The identification of the test rule by name and CFR citation is being added to aid EPA and exemption applicants in relating the Study Plan to the test rule requirements. For enforcement and reimbursement purposes EPA needs to know who is sponsoring a test or participating in a joint sponsorship arrangement. EPA will ordinarily limit its contacts to the principal sponsor. The third item being required, a description of the culture medium, is an amendment to the required test protocol information. The selection of the culture medium is an important experimental detail governing whether the tissues or organisms will grow. Furthermore, information on the components of the tissue culture may permit EPA scientists to make some judgements and provide advice on the potential for interaction between media constituents and the test substance. The attestation of equivalency is being proposed as a means of assuring EPA that joint sponsors assure that the chemical that is selected for testing is representative of the chemicals which they actually produce or process. EPA is requiring information on the process by which the test substance was manufactured for use as an additional criterion in making equivalence determinations.

The full study plan, as modified today, will appear in § 770.2, § 772.113–1(f), § 772.100–2(b)(2), and § 772.112–21 to § 772.119–1 of the final health effects standards. This discussion and the section on reporting in the preamble to the proposed test rule are intended to provide notice and opportunity for comment on this proposed change.

Applications for Exemptions

EPA plans to require every person seeking an exemption to file an application which cites or provides documentation concerning the study plan on which it bases its exemption application and, where required, explains why the applicant believes its product is equivalent to the test substance. In all such cases the burden will be on the applicant to present a justification for granting the exemption.

The specific information that must be included in the application is as follows:

(a) The test rule and specific testing requirement(s) from which an exemption is sought.

(b) Name, address, and telephone number of applicant.

(c) Name, address, and telephone number of appropriate individual to contact for further information.

(d) The citation or documentation of the study plan, study or studies upon which an exemption may be based.

(e) The following information, if equivalence is required to be shown:

(1) The chemical identity of the test substance or mixture on which this application is based. The chemical identity should include all available characteristics and properties of the test substance or mixture such as the boiling point, melting point, chemical analysis (including identification and amount of impurities) spectral data, etc.

(2) The chemical identity of each technical grade substance or mixture manufactured and/or processed by the applicant for which the exemption is sought. The chemical identity should include all characteristics and properties of the applicant's substance or mixture such as boiling point, melting point, chemical analysis (including identification and amount of impurities) spectral data, etc., that may be relevant in determining that the applicant's substance or mixture is equivalent to the test substance or mixture.

(3) A description of the process by which each technical grade substance or mixture for which an exemption is sought is manufactured and/or processed prior to use or distribution in commerce by the applicant.

(4) Any relevant biological test data (Ames tests, etc.) or studies which may bear on a demonstration of equivalency.

(5) The basis for the applicant's belief that the applicant's substance or mixture is equivalent to the test substance or mixture that the sponsor

manufactures or processes for purposes of satisfying the requirements of the applicable test rule.

The necessity for the above information has been described previously to enable EPA to make judgments concerning the equivalence of the substances tested and the substances of persons seeking exemptions.

When both manufacturers and processors are required to test and EPA requires the submission of equivalence data, EPA is proposing in general to require only manufacturers to submit such data. Processors may cite the equivalence data of the manufacturer of the technical grade chemical or mixture which they process. This requirement is based on the recognition that it is in the interest of economy to have only one party generate and submit equivalence data per chemical. The manufacturer is generally in the best technical position to do this and, although the costs for developing equivalence data are expected to be modest, he generally can pass a portion of the costs of data generation and submission to the processors. When EPA requires the submission of equivalence data and only processors are required to test (i.e., the finding of potential unreasonable risk or exposure is based on processing) or when EPA's concern for impurities requires the testing of a formulated product or processed form of a chemical because such concern stems from processing and use, EPA is proposing to require processors to independently submit equivalence data.

Approval of application. EPA is proposing to base its decision on whether to grant an exemption on the information contained in the application for exemption, in appropriate Study Plans submitted in response to the test rule and cited in the exemption application, and on actual data submitted from completed tests, if any. If the sponsor's protocol complies with the test standards, the data generated appear consistent and reasonable and the test substance and the applicant's substance are determined to be equivalent, the exemption will be granted. Equivalence was discussed in a previous section.

EPA will notify applicants in writing as to whether their exemption has been granted or denied. All denials will include the reasons for denial. If a denial was based upon insufficient data to demonstrate equivalency, EPA is proposing that the applicant may resubmit an amended application. An applicant may appeal a denial of an exemption. EPA is proposing not to make a decision to exempt an applicant if a valid Study Plan or test data on a chemical have not been received by EPA from a test sponsor because EPA considers such information essential to assure the Agency that an adequate study has been completed, is under way, or is seriously being undertaken.

Joint sponsorship applications. Section 4(b)(3)(A) of TSCA authorizes the Administrator to permit two or more persons subject to a test rule to designate one person to conduct tests and submit data on their behalf. Submission of similar information to that required for Section 4(c) exemptions will be required of joint sponsors. In order to promote joint sponsorship of testing, EPA will minimize the administrative burdens by dealing principally with the single party designated by the test sponsors hereafter known as the principal sponsor. The data required for joint sponsorship approval must be filed with the first Study Plan submitted by the joint test group.

Termination of Exemptions

TSCA provides that if an exemption is granted prospectively, that is, on the basis of one or more persons developing test data rather than on the basis of test data that have been submitted to EPA, that EPA must terminate the exemption if no one has complied with the test rule. Termination proceedings will begin as soon as EPA is reasonably certain that the test rule is not being complied with.

If EPA determines that the test rule has not been fully complied with either because: (a) no one subject to the rule has started testing, (b) no data or only partial data were submitted or (c) data were not generated according to EPA test standards or in accordance with good laboratory practice, EPA will provide written notice by certified mail of its preliminary findings to each exemptee. (EPA is not likely to pursue this course where the deviations from the regulations are minor.) The notice will offer the exemptee the opportunity for a hearing to rebut EPA's preliminary findings. If an exemptee requests a hearing, a hearing will be held at which all exemptees requesting a hearing will be afforded and opportunity to make a presentation giving the reasons why the exemptions should not be terminated. EPA is proposing that if it does not receive written notice of an exemptee's desire to have a hearing within 30 days of the date that the certified letter was received by the exemptee, it will make a final determination of invalidity, terminate the exemption and so notify the exemptee.

Confidentiality

Confidentiality Issues

The issue of confidentiality of information will have a particular bearing on the exemption process. Under Section 14(a) of TSCA, information that is reported to EPA under TSCA may not be disclosed by EPA if it constitutes trade secrets or confidential commercial or financial information that would be exempt from disclosure under the fourth exemption of the Freedom of Information Act (5 U.S.C. 552(b)(4) for "trade secrets and commercial or financial information obtained from a person and privileged or confidential"). Section 14(b) provides that data from health and safety studies for certain chemical substances may not be withheld from disclosure except to the extent the data would reveal confidential manufacturing or processing processes or confidential proportions of substances in a mixture. Certain forms of disclosure of otherwise confidential information are authorized by Section 14(a), including Section 14(a)(4) which provides that confidential business information "may be disclosed when relevant in any proceeding under this Act, except that disclosure in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding."

Because of particular concern with the problems of confidentially, EPA has raised the issue of confidentiality for specific comment in past rulemaking activities under TSCA. In the case of this rulemaking, EPA is proposing for comment policies and procedures for exemptions from Section 4 testing rules. These proposals raise specific confidentiality issues which are discussed in this section. EPA solicits public comment on all the aspects of the confidentiality issues raised.

Identity of principal study sponsors and joint sponsors. In past rulemaking activities under Sections 8 and 5 of TSCA, EPA has become aware that for certain chemicals the link of a specific chemical with the person who manufactures or processes it is considered confidential business information by that person. Manufacturers have shown, and EPA has agreed, on both Inventory reports under Section 8 and premanufacture notifications received under Section 5 that there are cases where disclosure of the fact that a particular company manufactures or processes a particular chemical substance would reveal confidential commercial information about that company which might be of value to competitors. That same

problem could occur in the exemption process.

In Study Plans, the principal study sponsor would identify itself and any joint sponsors as manufacturers or processors of the particular chemical substance. EPA recognizes that this information could, in certain circumstances, be confidential and that it, therefore, would be exempt from disclosure under Section 14(a) of TSCA except as discussed below. EPA solicits comments on how often, if at all, the identity of the principal study sponsor and joint sponsors are likely to be confidential.

If the identity of the principal study sponsor is confidential and not disclosed, it would have a complicating impact on the exemption process. In many cases, the Agency believes that exemption applicants will have an interest in identifying study sponsors in order to decide whether to seek an exemption and in order to negotiate with the study sponsors concerning either joint sponsorship or data reimbursement. In the absence of such information, the ability of study sponsors and exemption applicants to negotiate would be severely limited. This issue has already been raised in comments received under the Advance Notice of Proposed Rulemaking for testing reimbursement (September 19, 1979, 44 FR 54284). EPA solicits any additional comments on the problems of confidentiality with respect to the identity of study sponsors and the exemption process.

Among the comments already received concerning data reimbursement was the suggestion that EPA use its authority under Section 14(a)(4) to disclose certain confidential information. EPA is considering the need to use Section 14(a)(4) to disclose confidential study sponsor identities in order to facilitate the exemption process and the data reimbursement process. There are three approaches under consideration:

(a) No disclosure of confidential study sponsors. The benefit of this approach would be limited to granting protection to study sponsors. The detriments include additional burdens on EPA in the granting of exemptions and reaching reimbursement decisions, the lack of ability for direct negotiations, possible duplication of testing efforts, and a general slowing of the process.

(b) Disclosure of the identities of principal study sponsor, whether confidential or not. This would allow exemption applicants to identify the principal study sponsor as well as allowing principal study sponsors to identify each other. This disclosure would allow exemption applicants and study sponsors to enter discussions for joint sponsorship or testing reimbursement. This would tend to limit needless duplication of testing and speed the administrative process of granting exemptions and determining reimbursement. This approach might lead to competitive harm from the disclosure of the identity of confidential study sponsors and might lead to a reluctance on the part of some companies to become study sponsors.

(c) Selective disclosure of the confidential principal study sponsors when a specific exemption application was received for a particular study plan or in the context of a specific reimbursement proceeding.

All of the three solutions present problems. However, industry may be able to provide alternative solutions which do not rely on such disclosures. Industry could set up neutral third parties such as trade associations through whom study sponsors and exemption applicants could communicate. Alternatively, industry could choose nonconfidential study sponsors to take the lead for specific testing. EPA has not identified any need to reveal confidential identities of joint sponsors other than the principal sponsor under the authority of Section 14(a)(4).

EPA solicits comments on all of these matters, particularly with regard to the disclosure of confidential principal study sponsor identities under Section 14(a)(4).

Identity of exemption applicants. As discussed above, there may be situations where the identity of an exemption applicant would be confidential under Section 14(a). For the same reasons discussed above, confidentiality might complicate the exemption and reimbursement process. As with principal study sponsor identities, EPA is considering disclosure under Section 14(a)(4) of confidential exemption applicant identities using the same three approaches discussed above. EPA solicits comments with regard to disclosure of confidential exemption applicant identities under Section 14(a)(4).

Identity of laboratory conducting the test. If the identity of the laboratory reported as conducting the tests in a study plan is the same as the study sponsor, then the confidentiality of that identity is covered by the discussion in the previous item. If the identity of the laboratory is different from the identity of the study sponsor, EPA has not identified any situations in which the laboratory identity would be confidential. EPA solicits any comments on the potential confidentiality of laboratory identity.

Identification of the test rule. EPA does not anticipate any confidentiality claims with respect to the identification of the test rule in Study Plans and exemption applications. All of the confidentiality concerns focus on other items of information.

Identity and chemical analysis of the test substance. When the Agency has specified the test substance which should be used, EPA does not anticipate a confidentiality problem concerning the identity of the test substance. The specific description and grade of the test substance would be specified in the rule, and the study sponsor would only be confirming the use of a test substance which met the specified criteria.

In the situation where the Agency has *not* required that a specific test substance be used, the identity of the test substance, as well as that of manufactured or processed substances that are said to be equivalent, may be considered confidential by the submitter of the data. Although, instances in which equivalency arguments must be made will be the unusual case, confidentiality claims in those cases can significantly complicate an applicant's ability to demonstrate equivalence. EPA solicits comment on how often the identity of the test substance is likely to be considered confidential.

Consistent with position the Agency has taken in rules proposed under Sections 8(a) and 8(d), the Agency has reached a tentative conclusion that the identity of the test substance is data from health and safety studies as contemplated in Section 14(b) of TSCA and, therefore, would have to be disclosed unless it is within the two narrow exceptions to Section 14(b). The Agency does not believe this conclusion would have a major impact on disclosure of test substance identities. This is because the Agency has examined the types of confidentiality concerns that would be raised by the specific identity of the test substance and has concluded that most of these concerns fall within one of the specific exceptions in Section 14(b). Most concerns about the confidentiality of the test substance identity would derive from concern that disclosure would reveal a confidential manufacturing process. This is one of the two specific exceptions to the Section 14(b) disclosure requirement.

Additional concerns about the confidentiality of chemical identity have arisen in the Agency's rulemaking for premanufacture notification under Section 5 of TSCA. To the extent that study plans contain information

concerning a test substance that would be the subject of a premanufacture notice under Section 5, the Agency will follow for purposes of the exemption process the approach to chemical identity confidentiality which is decided in the final Section 5 rules which are scheduled for promulgation this fall.

With respect to identities of test substances which are not within the Section 5 rules, the Agency is proposing to treat those identities as confidential only if they meet the test of Sections 14 (a) and fall within one of the two exceptions to Section 14(b). If these criteria are not met, the test substance identity would be disclosed as data from health and safety studies under Section 14(b). The Agency requests comment on this interpretation.

If the Agency were to hold some test substance identities as confidential in Study Plans because they meet the criteria of Section 14(a) and (b), the ability of exemption applicants to identify the Study Plans upon which they base their exemption applications would be greatly reduced. The policy of Section 4 of TSCA is to reduce duplicative testing and the resulting overuse of limited testing resources and to minimize the economic consequence of testing. If claims of confidentiality as to chemical identities were to effectively impair the ability of EPA to grant exemptions and thereby reduce duplicative testing of chemical substances, this statutory policy could not be implemented. Accordingly, if the chemical identity of the test substance were found to be confidential pursuant to Section 14(b), EPA would need a way of evaluating exemption applications short of full public disclosure. EPA solicits comments on these several options it is considering as well as others that might exist, together with comment on the issue of whether any such options are either necessary or appropriate.

First, EPA could set up a system for potential exemption applicants to obtain the identities of confidential test substances, under authority of Section 14(a)(4), by making a showing that they are *bona fide* manufacturers of processors of the chemical substance in question. If the applicant could show EPA that it was a *bona fide* manufacturer or processor, EPA would identify the test substance, and the applicant could seek an exemption.

Second, EPA could accept exemption applications whether or not the applicant knew the identity of the test substance in a specific Study Plan. If EPA determined that the applicant's substance was equivalent to the test substance for which a Study Plan had been submitted, EPA would grant the exemption. If not, EPA would deny the exemption.

Third, EPA could encourage the study sponsors to choose, where possible, nonconfidential test substances that would be equivalent to the actual substance manufactured or processed but which would not reveal the confidential aspects of the manufactured or processed substances.

All of these options attempt to address the problem which might be presented were the identity of test substances to be claimed confidential by minimizing disclosure while allowing for the granting of exemptions. Each of these options has positive and negative aspects. The first option would require applicants to show that they are *bona fide* manufacturers or processors of the substance in the rule. If they make such a showing, they would be given the confidential test substance identity. Knowing this identity they could show that the substances they manufactured or processed were equivalent. This would create some burden for EPA in the *bona fide* inquiry process, but it would reduce EPA's burden of finding equivalence because the applicant would be required to make a case for equivalence which EPA would review. It would also result in disclosure of confidential information whether or not there was equivalence to the very persons from whom the test sponsor may wish to keep it.

Under the second option, the applicant would make an application knowing that there was a Study Plan for a specific chemical substance but not knowing the identity of the actual test substance. EPA would then be required to determine whether the applicant's substance was equivalent to the test subtance or not. If it were, EPA would only have to tell the applicant that there was equivalence and also notify the study sponsor. (There might still be problems if the identities of the applicant and the study sponsor were confidential, but this issue is discussed above and would not directly affect the choice among options here.) If the Agency found equivalence, there would be no need to disclose the actual identity of the test substance to the applicant, thereby protecting the study sponsor's interest. However, if the Agency determined that there was not equivalence, the applicant might seek to challenge that finding. In the absence of knowledge about the actual identity of the test substance, the applicant would be unable to present its case in favor of equivalence. In that situation, the Agency would have to consider some form of disclosure under the authority of Section 14(a)(4), in order to enable the applicant to pursue its appeal.

The third option might alleviate the need for the other options in most cases if the study sponsor could choose a nonconfidential test substance and show its equivalence to the substance actually manufactured or processed. The applicant would also have to show the equivalence of the substances it actually manufactured or processed to the test substance. This would not require the disclosure of the confidential substances, but it would be dependent upon the equivalence of the nonconfidential test substance to the substances actually manufactured or processed, which might not always be possible. In that event another solution would be necessary.

In conjunction with, or in lieu of, the above options, industry itself may be able to reach negotiated solutions to the disclosure of test substance identities. Many of these solutions would be dependent upon other information being nonconfidential. These possibilities should be addressed in any comments.

The manufacturing or processing for the test substance. In some cases the identity of the test substance cannot be specified without stating the manufacturing or processing process. For the reasons discussed above, the Agency has reached a tentative conclusion that in those cases where the identity is dependent upon the description of the manufacturing or processing process, that description would constitute data from health and safety studies under Section 14(b). However, if that description were confidential under Section 14 (a), clearly it would fall within one of the exceptions of Section 14(b). Consequently, there are likely to be situations where the description would be confidential under Section 14(a) and (b). The question of whether or not such confidential descriptions should be disclosed as part of the exemption process under Section 14 (a) and (b) is essentially the same as for disclosure of the identity of the test substance discussed above. The options available would be the same. The Agency solicits comments on these matters and particularly the potential disclosure of confidential manufacturing processes under the various options discussed above.

Protocol information. Consistent with the position the Agency has taken in rules proposed under Sections 8(a) and 8(d), the Agency has reached a tentative conclusion that the protocol information is data from health and safety studies as contemplated in Section 14(b) and,

therefore, would have to be disclosed unless it was within one of the two narrow exceptions to Section 14(b). The Agency has examined potential confidentiality concerns for protocol information and has not identified any concerns other than to the extent the protocol information might contain references to other confidential information such as manufacturing process or test substance chemical identity. Consequently, the Agency is proposing that disclosure of confidential protocol information be governed by the same approaches discussed above. EPA solicits comment on the confidentiality concerns, if any, that may occur for protocol information and the use of the various options for disclosing that information.

Information concerning chemical substances actually manufactured or processed and their manufacturing or processing processes. EPA is aware that information concerning the chemical analysis of substances actually manufactured or processed, including impurities and contaminants, may reveal information concerning the manufacturing or processing process. This is clearly true of actual descriptions of the manufacturing or processing processes used. The proposal would require and exemption applications to contain such information to show equivalence when such a showing is necessary. If the information concerning manufacturing or processing processes is confidential under Section 14(a), EPA would not be able to disclose it except as provided in Section 14(a)(4). EPA solicits comments on this assumption. Particularly, EPA is concerned with finding out whether this information is likely to be confidential in the form provided, whether the confidentiality concerns could be met by keeping the submitter's identity confidential, whether there would be a need to disclose this information to other parties, and whether this information on equivalence would, at any time, constitute data from health and safety studies under Section 14(b). At this time EPA has not identified any need to disclose such information under Section 14(a)(4).

Description of basis for finding of equivalence and biological data demonstrating equivalence. For the same reasons that information concerning the chemical analysis of substances actually manufactured or processed may be confidential or information concerning their manufacturing or processing processes may be confidential, EPA is aware that the argument for equivalence made by the study sponsor or exemption applicant might be confidential under Section 14(a). In discussing the arguments in favor of equivalence, the submitter might have to reveal confidential information. If the information is confidential, EPA would not disclose it except as deemed necessary pursuant to Section 14(a)(4). EPA does not anticipate that nondisclosure of such information generally will impair the exemption process. However, the biological data submitted to demonstrate equivalence would generally constitute health and safety data under Section 14(b) in which case it would have to be disclosed. EPA solicits comments on the assumptions in this discussion and the extent to which these items are likely to be confidential.

Substantiation of Confidentiality Claims

Under EPA's confidentiality regulations in 40 CFR Part 2, a person submitting information to EPA may claim any information confidential. In order to make the assertion of confidentiality the person need only mark the information in some appropriate fashion to indicate the confidentiality claim. In some limited situations because of administrative needs (such as the Inventory) or public participation needs or anticipation of Freedom of Information Act requests (such as in the Section 5 notices), the Agency has required or proposed to require substantiation of confidentiality claims at the time of submission of the information.

With respect to the exemption process, EPA has identified information which appears to fall within the above categories justifying substantiation of the confidentiality claims at the time of submission. EPA recognizes that requiring substantiation at the time of submission may create additional burdens on the submitter. Accordingly, EPA has tried to limit such requirements to those which have a direct bearing on the efficient and fair operation of the exemption process.

The items of information for which the Agency is proposing to require substantiation of confidentiality claims at the time of submission are: the identity of the principal test sponsor, the identity of the test substance, and the manufacturing or processing process for the test substance. As discussed above, if the identities of the test substance and/or its manufacturing or processing process are confidential, the exemption process is much more difficult to administer, and exemption applicants have a more difficult time seeking exemptions, arguing in favor of equivalence, and pursuing appeals of decisions against findings of equivalence. Accordingly, the Agency, the exemption applicants, and the study sponsors have an apparent interest in limiting the confidentiality of this information to those cases where the confidentiality is legally supportable. The Agency anticipates that it would have to make confidentiality determinations for all test substance identities and manufacturing or processing processes for test substances claimed confidential at or near the time Study Plans are submitted in order to enable exemption applicants to have the maximum information to pursue their applications. The same types of concerns would require substantiation for principal test sponsor identities.

The Agency solicits comments on the proposal to require substantiation of confidentiality claims for these three items of information in Study Plans and also whether there is any need to require substantiation for other items of information in the exemption process at the time of submission.

Public Meetings

EPA will hold a genral public meeting on September 24, 1980, in Washington, D.C. to provide the public an opportunity to present comments and questions on these proposed rules as required by Section 4(b)(5) to EPA officials who are directly responsible for developing the rule and supporting analyses. The public meeting will start with a short summary by EPA of the proposed rules and will be followed by oral presentations from the floor. A time limit of 15 minutes per person, company, or organization may be imposed depending upon the number of requests. EPA will allot speaking times in advance of the meeting on a first-come basis, although the Agency reserves the right to alter the order depending upon the nature of the particular comments and other relevant factors. For the benefit of all concerned, EPA encourages the elimination of redundant comments. If time permits, following these prepared presentations, EPA will receive any other comments from the floor. Presenters are invited, but not required, to submit copies of their statements on the day of the meeting. All such written materials will become a part of EPA's record for this rulemaking. In addition, the Agency will transcribe each meeting and will include the written transcripts in the public record. The exact location and time of this meeting will be announced later in the Federal Register and the press.

In addition to the general public meeting, EPA personnel responsible for developing these proposals will be

available at EPA's discretion to meet in public sessions at EPA in Washington, D.C., during the 105 day comment period, with interested persons from individual companies, trade associations, organized labor and citizen organizations to discuss these proposals. EPA encourages using special request meetings for discussing technical data and implementation issues. However, persons should plan to present their views at the general meeting to ensure their opportunity for comment since special meetings will be held only when EPA believes that the subject is more appropriately discussed in a special format than in a general meeting. EPA will provide facilities and make other necessary arrangements for such meetings. The Agency will make transcripts or summaries of the meetings for inclusion in the official public record. While these meetings will be open to the public, active participation will be limited to those requesting the session and designated EPA participants.

Persons who wish to present comments at the September 24, 1980 general meeting should contact EPA no later than September 12, 1980 by calling toll-free (200) 424-9065 (in Washington, D.C. call 554-1404), or by writing to the address listed at the beginning of this preamble under "For Further Information Contact". Persons wishing to arrange a special meeting should follow the same procedures.

Public Record

All comments received in response to this notice will be available for inspection in the OPTS Reading Room (Docket No. 80T-125) in Room 447 E, 401 M Street SW., Washington, D.C. 20460 from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays.

The comments of the Chemical Manufacturers Association to the Advance Notice of Proposed Rulemaking on Reimbursement bears on this rulemaking and, accordingly, will be included in the Public Record.

Related Actions

EPA is proposing the first health effects test rules under Section 4(a) of TSCA in a separate notice in today's Federal Register.

EPA published in the Federal Register on September 16, 1979 (44 FR 54282) an Advance Notice of Proposed Rule Making concerning reimbursements required to be made by persons granted an exemption under Section 4(c) of TSCA.

Dated: July 1, 1980.

Douglas M. Costle,

Administrator.

It is proposed that title 40 of the Code of Federal Regulations be amended by designating the existing material under proposed Part 770 (44 FR 44054, July 26, 1979) Subpart A, reserving Subparts B thru D, and proposing to add a new Subpart E to read as follows:

PART 770—TEST RULES FOR CHEMICAL SUBSTANCES AND MIXTURES

Subpart E—Exemptions

Sec.

Subpart E—Exemptions

§ 770.400 Scope, purpose and authority.

(a) This subpart sets forth the requirements for submission and approval of applications for exemption and for approval of joint sponsorship of testing under Sections 4(b)(3)(A) and 4(c) of the Toxic Substances Control Act [TSCA, 15 U.S.C. 2603(b)(3)(A), 2603(c)].

(b) (1) Section 4(c) of TSCA permits any person subject to a test rule promulgated under Section 4(a) to request an exemption. The Administrator is directed to approve an application for an exemption if he determines that the chemical to which the application pertains is equivalent to one for which data have been or are being developed pursuant to the same testing rule, and that submission of data by the applicant would be duplicative.

(2) Section 4(b)(3)(A) of TSCA authorizes the Administrator to permit two or more persons subject to a test rule to designate one of themselves or a qualified third party to conduct testing and submit data on their behalf.

(3) Sections 4(c)(3)(A) and 4(c)(4)(A) of TSCA provides that persons receiving exemptions must reimburse all those who have contributed or are contributing to financing the development of the data on the basis of which the exemption was received. This reimbursement is to be for a portion of the costs incurred. If the persons concerned cannot agree on the amount and method of reimbursement, EPA is required to order the person granted the exemption to provide fair and equitable reimbursement to the appropriate parties.

§ 770.401 Applicability.

This part is applicable to manufacturers and processors of chemical substances and mixtures who seek an exemption from test requirements of Part 773 of this chapter or who elect to jointly sponsor such testing.

§ 770.402 Definitions.

For the purpose of this subpart:

"Additive" means a chemical substance that is intentionally added to another chemical substance to improve its stability or impart some other desirable quality.

"Equivalence data" means chemical data or biological test data which show two substances or mixtures to be equivalent.

"Equivalent" means that one or more substances or mixtures is able to represent or substitute for another in a test or series of tests.

"Exemption" means and exemption from the testing requirement of a TSCA Section 4 test rule in Part 773 of this chapter.

"Impurity" means a chemical substance which is unintentionally present with another chemical substance. "Joint sponsor" means a person who sponsors testing pursuant to Section 4(b)(3)(A) of TSCA.

"Joint sponsorship" means the joint sponsorship of testing by two or more persons in accordance with Section 4(b)(3)(A) of TSCA.

"Principal sponsor" means an individual sponsor or the joint sponsor who assumes primary responsibility for the direction of a study and oral and written communication with EPA.

"Reimbursement period" means the period of time during which persons granted exemptions from test rules are required to reimburse persons who have contributed or are contributing to financing the development of data on which exemptions are based. This period is established on a case by case basis pursuant to Section 4(c)(3)(B) of TSCA.

"Sponsor" means the person or persons who design, direct and finance the testing of a substance or mixture designated for testing in a Section 4 test rule in Part 773 of this Chapter.

"Test substance" means the chemical substance or mixture that is specified for use in actual testing.

§ 770.405 Filing of applications.

(a) *Who may file.* Any person seeking an exemption from a test rule promulgated under Section 4(a) of TSCA.

(b) *What may be claimed.* A person may apply for an exemption from all or one or more specific testing requirements testing requirements to which the person is subject as set forth in Part 773 of this chapter.

(c) *Where to file.* All applications and appeals must be submitted to the Document Control Officer (TS–793), Office of Pesticides and toxic Substances, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Attn: [File Number]. The File Number is the code of Federal Regulations (CFR) section number of the subject chemical (e.g., 773.130 for chloromethane).

§ 770.406 Content of application.

(a) The test rule and specific testing requirement(s) from which an exemption is sought.

(b) Name, address, and telephone number of applicant.

(c) Name, address, and telephone number of appropriate individual to contact for further information.

(d) The citation or documentation of the Study Plan, study or studies upon which an exemption may be based.

(e) If required by § 770.420 of this part:

(1) The chemical identity of the test substance or mixture on which this application is based. The chemical identity should include all available characteristics and properties of the test substance or mixture such as the boiling point, melting point, chemical analysis (including identification and amount of impurities) spectral data, etc.

(2) The chemical identity of each technical grade substance or mixture manufactured and/or processed by the applicant for which the exemption is sought. The chemical identity should include all characteristics and properties of the applicant's substance or mixture such as boiling point, melting point, chemical analysis (including identification and amount of impurities) spectral data, etc., that may be relevant in determining that the applicant's substance or mixture is equivalent to the test substance or mixture.

(3) A description of the process by which each technical grade substance or mixture for which an exemption is sought is manufactured and/or processed prior to use or distribution in commerce by the applicant. Processing as opposed to manufacturing information is required only if processors are required to submit equivalence data individually pursuant to § 770.420.

(4) Any relevant biological test data (Ames tests, etc.) or studies which may bear on a demonstration of equivalency.

(5) The basis for the applicant's belief that the applicant's substance or mixture is equivalent to the test substance or mixture that the sponsor manufacturers or processes for purposes of satisfying the requirements of the applicable test rule.

§ 770.407 Joint sponsorship of testing.

Persons subject to test rules who jointly sponsor testing are not required to file an application for an exemption but must file a Study Plan.

§ 770.410 Approval or denial of applications for exemption or approval of joint sponsorship

(a) The Administrator will approve any applications if he determines that:

(1) the chemical substance or mixture with respect to which the applications were submitted is equivalent to a chemical substance or mixture for which data have been or are being submitted in accordance with a test rule, and

(2) submission of data by the applicant on such chemical substance or mixture would be duplicative of data which have been or are being submitted to the Administrator in accordance with a test rule.

(b) The Administrator will notify the applicant by certified mail of his determination within 30 days.

§ 770.420 Submission of equivalence data.

(a) If EPA does not require the submission of equivalence data in Part 773 of this Chapter for the substance or mixture subject to the test rule, the information specified in § 770.406(e) will not be required to be submitted.

(b) If EPA requires the submission of equivalence data in Part 773 of this Chapter for the substance or mixture, a showing of the equivalency of the applicant's substance and the test substance is required as a condition for an exemption and for EPA approval of joint sponsorship of tests.

(1) Manufacturers applying for an exemption shall be required to submit the information specified in § 770.406(e).

(2) When both manufacturers and processors are subject to a test rule, a processor applying for an exemption may cite any applicable information required by this section that is supplied by the manufacturer of the chemical substance that the processor processes.

(3) If only processors are subject to a test rule, processors applying for an exemption shall be required to submit the information required by this section.

(4) If EPA specifies testing of formulated products or processed forms of the chemical, both manufacturers and processors applying for an exemption shall be required to submit the information specified in § 770.406(e).

§ 770.430 Appeal from denial of exemption application.

(a) Within 30 days after receipt of notification that EPA has denied an application for exemption or approval of joint sponsorship, the applicant may file an appeal with the Document Control Officer.

(b) The appeal shall indicate the basis for the applicant's request for reconsideration.

(c) The Administrator will notify the applicant of his decision within 60 days.

(d) The filing of an appeal from the denial of an exemption or approval of joint sponsorship shall not act to stay the applicant's legal obligation under Section 4 of TSCA.

§ 770.431 Termination of exemption.

(a) EPA shall terminate a prior approval of an exemption application if it determines that:

(1) The test which provided the basis for approval of the exemption application has not been started, or

(2) The test is not being conducted, or the data being generated, in accordance with the test standards and good laboratory practices in 40 CFR 772.

(b) EPA will first provide 30 days written notice for an opportunity for a hearing to those persons whose exemption was based upon the non-complying test.

(c) An exemptee may request EPA to terminate its exemption. Such requests should be in writing, submitted to the Document Control Officer and should state the reasons for the request.

§ 770.440 Statement of financial responsibility.

Each applicant for an exemption shall submit the following sworn statement with his application:

I understand that if this application is granted before the reimbursement period described in Section 4(c)(3)(B) of TSCA expires, I must pay fair and equitable reimbursement to the person or persons who incurred or shared in the costs of complying with the requirement to submit data and upon whose data the granting of my application was based.

[FR Doc. 80-21564 Filed 7-17-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 773

[OPTS 47002 FR 1495-8]

Chloromethane and Chlorinated Benzenes Proposed Test Rule; Amendment to Proposed Health Effects Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Under Section 4(a) of the Toxic Substances Control Act (TSCA), the Environmental Protection Agency (EPA) is proposing that manufacturers and processors of chloromethane and all chlorinated benzenes except hexachlorobenzene conduct health effects testing in accordance with previously proposed Section 4(b) test standards. The health effects testing proposed for chloromethane is oncogenicity and structural teratogenicity. EPA is proposing that all manufacturers and processors pay for testing a sample of six of the chlorinated benzenes: mono-, 1,2- and 1,4-di-, 1,2,4-tri-, 1,2,4,5-tetra-, and pentachlorobenzene. All except pentachlorobenzene are to be tested for structural teratogenicity and subchronic/chronic effects, all except 1,2,4-trichlorobenzene are to be tested for reproductive effects, and all except mono- and the two dichlorobenzenes are to be tested for oncogenicity. Testing will be in accordance with already proposed test standards except for a limited number of chemical-specific modifications proposed in this rule. The Administrator of EPA will use the test data to assess the risks of injury to human health presented by these chemicals.

EPA is also proposing to amend the previously proposed health effects standards to increase reporting requirements for Study Plans.

DATES: Written comments should be submitted on or before October 31, 1980. EPA will hold a public meeting for this rule on September 24, 1980, in Washington, D.C. The exact time and place will be announced in a future Federal Register notice. For further information on arranging to speak at the September general meeting or arranging a special public meeting see Section XIII of this preamble.

ADDRESSES: Written views and comments should bear the document control number 80T-126 and should be submitted to: Document Control Officer, Chemical Information Division (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. The support documents described herein are available on request from the Industry Assistance Office.

FOR FURTHER INFORMATION CONTACT: John Ritch, Industry Assistance Office, Office of Pesticides and Toxic Substances (TS-799), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; Toll-free telephone number: 800-424-9065 (In Washington, D.C. call 544-1404).

SUPPLEMENTARY INFORMATION:

Introduction

Under Section 4(a) of the Toxic Substances Control Act (TSCA) (Pub. L. 94-469; 90 Stat. 2006; 15 U.S.C. 2603) EPA is proposing health effects testing requirements for chloromethane and certain chlorinated benzines. These rules will not require testing for all health effects recommended by the Interagency Testing Committee (ITC); accordingly, this notice and accompanying documents also explain EPA's decision not to require testing for certain effects and its plans to propose rules for other effects after public comment is received on issues raised in today's proposal.

This preamble outlines EPA's legal authority to require testing and its approach to implementing Section 4, explains the proposed rules and EPA's policies on significant issues, summarizes the basis for EPA's determinations concerning the need to test, identifies issues for comment, and covers other pertinent points. In addition, EPA has prepared four support documents which are available from the Industry Assistance Office. The Support Documents for Chloromethane and the Chlorinated Benzenes describe the basis for EPA's findings in detail. The Economic Analysis Support Document assesses the ability of the chloromethane and chlorinated benzenes markets to sustain the cost of testing. The Exposure Support Document explains EPA's approach to exposure assessment for purposes of Section 4 of TSCA.

EPA has also proposed health effects test standards in the Federal Register on May 9, 1979 (44 FR 27334) and July 26, 1979 (44 FR 44054) which are designed to be incorporated into this rule by reference. Documents pertaining to those proposals describe the purpose of the various tests proposed today, how they are to be done, how much they will cost, and other related matters. Those documents, and the ones supporting today's proposal, must be read together with this preamble to obtain a complete explanation of the basis for EPA's determinations.

The following is an outline to the remainder of this preamble.

I. Statutory Framework and Implementation

Section 4 of the Toxic Substance Control Act authorized the Administrator of EPA to require manufacturers (including importers) and processors of identified chemical substances and mixtures to test the chemicals in accordance with applicable EPA test rules [Section 4(a), (b)]. TSCA states that each Section 4(a) test rule must identify the chemical substances and mixtures for which testing is required, provide standards for the development of test data ("test standards"), and, for chemicals which are not new chemicals, designate deadlines for the submission of data developed under the rule [Section 4(b)(1)].

A. Section 4(a) Findings

In order to require that a chemical be tested in accordance with EPA test standards, the Administrator must make three findings relating to the chemical's risk potential, the insufficiency of data available to EPA, and the need to test.

First, the Administrator must find either that the manufacture, distribution in commerce, processing, use, disposal, or some combination of these activities involving the chemical may present an unreasonable risk of injury to health or the environment [Section 4(a)(1)(A)(i)], or that the chemical is or will be produced in substanial quantities and that there is or may be significant or substantial human exposure to or substantial environmental release of the chemical [Section 4(a)(1)(B)(i)]

Second, the Administrator must find that existing data and experience relating to the chemical are insufficient to reasonably determine or predict the effects on health or the environment of the manufacture, distribution in commerce, processing, use, or disposal of the chemical or of any combination of these activities [Section 4(a)(1)(A)(ii) and (B)(ii)].

The third finding is that testing is necessary to develop the requisite data [Section 4(a)(1)(A)(iii) and (B) (iii)].

These findings may be made with respect to individual chemicals or categories of chemicals. Section 26(c)(1) provides that any action authorized or required to be taken by EPA under any provision of the Act may be taken in accordance with that provision with respect to a category of chemical substances or mixtures. Section 26(c)(2)(A) explains that the term "category of chemical substances" means a group of chemical substances, the members of which are similar in molecular structure, in physical, chemical, or biological properties, in use, or in mode of entrance into the human body or the environment, or the members of which are in some other way suitable for classification as such for purposes of the Act (except that the term does not mean a group of chemical substances which are grouped together solely on the basis of their being new chemical substances).

The Administrator may require testing of mixtures only if, in addition to the foregoing findings, he finds that the necessary information cannot reasonably and more efficiently be obtained by testing the separate components in the mixture [Section 4(a)(2)]. Also, while TSCA does not generally apply to chemicals manufactured, processed, or distributed in commerce for use as pesticides, food additives, drugs, and cosmetics, such chemicals may be tested under Section 4 if they are also manufactured, processed, or distributed in commerce for uses covered by TSCA.

B. Test Rules and Standards

The rules required by Section 4 must (1) identify the chemicals to be tested, (2) provide the date by which test data must be submitted, (3) specify which tests are to be conducted, and (4) prescribe standards for the development and analysis of test data. [Sections 4(b) and 3(12)(A)]. The Act states that carcinogenesis, mutagenesis, teratogenesis, behavioral disorders, cumulative or synergistic effects and any other effect which may present an unreasonable risk of injury to health or the environment are effects for which test standards may be prescribed [Section 4(b)(2)(A)]. The Act further specifies that the characteristics of chemicals for which such standards may be prescribed inclued persistence, acute toxicity, subacute toxicity, chronic toxicity, and any other characteristic which may present such a risk [Section 4(b)(2)(A)].

To the extent necessary to assure reliable and adequate data or such health and environmental effects, test standards may also prescribe the manner in which data are to be developed, any test protocol or methodology to be employed in the development of such data, and such other requirements as are necessary to provide such assurance [Section 3(12)(B)]. The Act specifies that the methodologies that may be prescribed in such standards include epidemiological studies, serial or hierarchical tests, *in vitro* tests, and whole animal tests [Section 4(b)(2)(A)].

C. Issuance of Test Rules and Standards

EPA has chosen to implement Sections 4(a) and 4(b) in separate but related rulemakings. In general, a "test rule" imposes testing requirements on specific chemicals, whereas a "test standard" indicates the testing method to be used. In today's action implementing Section 4(a), EPA is proposing a test rule which identifies the specific chemicals to be tested and test standards to be followed, establishes deadlines and reporting requirements for the submission of data to EPA, and specifies the persons who will be required to conduct tests and submit data. This proposal reflects EPA's preliminary determination that the development of test data is necessary to determine whether the identified chemicals present on unreasonable risk of injury to human health or the environment.

In two previous notices implementing Section 4(b), EPA proposed the health effects test standards and Good Laboratory Practices which are to be referenced in the test rule proposed today. Standards for oncogenicity, other chronic effects, and combined chronic effects were published in the Federal Register of May 9, 1979 (44 FR 27334). Standards pertaining to (1) acute oral toxicity, (2) acute dermal toxicity, (3) acute inhalation toxicity, (4) primary eye irritation, (5) primary dermal irritation, (6) dermal sensitization, (7) subchronic oral dosing, (8) subchronic 90-day dermal toxicity, (9) subchronic inhalation toxicity, (10) teratogenicity, (11) reproductive effects, (12) mutagenicity-gene mutations, (13) mutagenicity-heritable chromosomal mutations, (14) mutagenicity-effects on DNA repair or recombination, and (15) general metabolism, were published in the Federal Register of July 26, 1979 (44 FR 44054). In addition, the Agency's proposed test standards relating to Good Laboratory Practices (GLP) for Health Effects (Animal Bioassays) were published in the Federal Register of May 9, 1979 (44 FR 27362). Standards for neurotoxicity (neurologic and behavioral effects) testing, behavioral teratogenicity testing, certain types of metabolism testing, for additional mutagenicity testing and environmental effects testing have not yet been proposed.

These test standards, when final, are intended to be generic standards that will be incorporated by reference into each proposed and final test rule. However, because of the need to ensure that the generic test standards are

appropriate to a specific chemical, the Administrator may propose individual modifications of the test standards in specific test rules. In the course of commenting on a specific test rule, the public may also recommend changes to the test standards that it believes are necessitated by the particular characteristics of the chemical for which testing has been proposed. EPA will consider all such comments carefully but will not reevaluate the appropriateness of the generic standards except as they relate specifically to the proposed testing of that chemical. Comments that raise general testing standard issues will be taken into account when EPA conducts the required yearly review of the adequacy of the standards (Section 4(b)(2)(B)). At that time, EPA will solicit comment on and propose appropriate revisions to the generic standards.

By conducting this annual review and by tailoring the generic standards to the characteristics of specific chemicals as necessary, EPA believes sufficient flexibility is provided to assure that testing requirements for chemicals will be scientifically appropriate and as consistent as possible with nationally and internationally agreed upon guidelines. While chemical-specific modifications to test rules and standards will not be routinely considered after promulgation, the Agency will consider them upon a showing of compelling necessity.

This scheme for integrating the "test rules" and "test standards" will apply somewhat differently for this first set of test rules and test standards. Because final health effects test standards have not yet been promulgated, the test rule proposed today incorporates proposed test standards. The final test rule will incorporate the final test standards, along with any chemical-specific modifications applicable to chloromethane and the chlorinated benzenes. EPA will incorporate the record of the test standard rulemaking into this proceeding (with the exception of effects for which testing is not being proposed).

In commenting on today's proposal, there is no need to repeat comments made previously on the general appropriateness of the proposed test standards and good laboratory practice standards. Comments may be limited here to the appropriateness of the proposed test standards, as modified, in the test rule to the testing of chloromethane and the chlorinated benzenes. Persons wishing to reiterate previous comments are encouraged to reference, rather than repeat, prior submissions.

It has been suggested that in order to comment on the proposed test rule meaningfully, there must be an opportunity to review the final standards. EPA disagrees. While EPA has chosen to propose test standards in a separate earlier rulemaking, there is no legal requirement that test standard issues be resolved first. The same opportunity for comment exists that would be available if EPA had decided to propose and promulgate all the requirements in the test rules and standards in one rulemaking. Further, EPA staff will be available to discuss questions relating to the relationship of the test rules to the test standards.

D. Effective Period of Rule

Section 4(b)(1)(C) requires EPA to specify the period of time within which persons required to test must submit the data to EPA. This period does not apply to new chemicals; submission requirements for them are governed by Sections 5(b) and 5(d).

Section 4(b)(4) governs the expiration of the rule. Testing requirements do not end as soon as the first data are submitted, but expire at the end of the reimbursement period. The reimbursement period begins when the first data are submitted and ends after five years or at the expiration of a period to time equal to the time necessary to develop the date, whichever is longer [Section 4(c)(3)(B)]. In the case of categories of chemicals, the rule expires when the reimbursement period for the last chemical in the category to be tested expires. In addition, EPA may repeal the rule at any time.

E. Testing Responsibility, Exemptions, and Reimbursement

Section 4(b)(3)(B) specifies that the activities for which the Administrator makes the Section 4(a) findings (manufacture, processing, distribution, use, and/or disposal) determine whether the responsibility to conduct the required tests and submit the resulting data is borne by (1) each person who manufactures or intends to manufacture the chemical, (2) each person who processes or intends to process the chemical, or (3) both manufacturers and processors. Because TSCA defines "manufacture" to include "import into the customs territory of the United States" [Section 3(7)], the term "manufacturer" encompasses both manufacturers and importers.

Section 4 contains provisions designed to avoid duplicative testing. Section 4(b)(3)(A) provides that the Administrator may permit two or more of the manufacturers and/or processors who are required to conduct tests and submit data to designate one such person or a qualified third person to conduct the tests and submit such data on behalf of the persons making the designation. In addition, Section 4(c) specifically provides that any person required to test may apply to the Administrator for an exemption from the requirement. If the Administrator determines that a chemical for which an exemption application is submitted is equivalent to a chemical for which data have been submitted or are being developed pursuant to a test rule and that submission of data by the applicant would be duplicative of data that have been submitted or are being developed pursuant to a test rule, the Administrator must exempt the applicant from conducting tests and submitting data 1 [Section 4(c)(2)]. Persons receiving exemptions must reimburse those who actually did, are doing, or previously contributed to the cost of the required testing for a portion of the costs incurred in complying with the rule [Sections 4(c) (3)(A) and (4)(A)].

If the persons submitting the test data and those granted exemptions based on those data cannot agree on the amount and method of reimbursement, EPA must order the person granted the exemption to provide fair and equitable reimbursement. Reimbursement rules to be adopted by the Agency are to be developed in consultation with the Justice Department and the Federal Trade Commission. Relevant factors to be taken into account are the competitive position and the market share of the persons providing and receiving reimbursement. The Administrator's final order is reviewable in Federal district court [Sections 4(c) (3)(A) and (4)(A)].

F. Implementation of Exemption and Reimbursement Provisions

The Agency has published in today's Federal Register a proposed Statement of Exemption Policy and Procedure, setting forth its intended approach to Section 4(c) exemption questions. In addition, the Agency published an Advance Notice of Proposed Rulemaking (ANPRM) relating to reimbursement issues under Sections 4(c)(3) and 4(c)(4) in the Federal Register of September 19, 1979 (44 FR 54284). EPA plans to publish a proposed rule on reimbursement in the fall of 1980.

As discussed later (III.E.), there is some interdependence among the exemption and reimbursement provisions, the allocation of responsibility for testing [Section

4(b)(B)(3)], and the selection of chemicals within a category for inclusion in a test rule. In general, the issues raised by these provisions are quite complex from both an administrative and economic perspective. In response to the ANPRM on reimbursement, EPA has recently received submissions from the Chemical Manufacturers' Association, firms and other trade groups which address many of these issues. EPA has not had an opportunity to fully analyze these comments but will consider the implications that they may have on this rulemaking.

II. Recommendations of Interagency Testing Committee

Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to recommend to EPA a list of chemicals to be considered for testing. The ITC may designate up to 50 substances at any one time for priority consideration by EPA. TSCA requires EPA to respond to such designations within 12 months of the date they are made either by initiating rulemaking under Section 4(a) or publishing in the Federal Register reasons for not initiating rulemaking.

As of April 1980, the ITC had designated 39 chemicals and categories of chemicals for priority consideration by EPA. Today's proposal concerns health effects testing for one chemical substance, chloromethane, and two categories of substances, the lower and higher chlorinated benzenes, recommended by the ITC. In addition, in a separate notice appearing in today's Federal Register, EPA announces its tentative decision not to require health effects testing for acrylamide, another substance designated by the ITC.

Chloromethane was designated on the Priority List in the ITC's First Report published in the Federal Register October 12, 1977 (42 FR 55026). The ITC recommended that testing be undertaken for carcinogenicity, mutagenicity, teratogenicity, and other chronic effects, placing particular emphasis on its concern about chloromethane's effects on the central nervous system, liver, kidney, bone marrow, and the cardiovascular system. Monochlorobenzene and the dichlorobenzenes were also placed on the list in the First Report. The ITC recommended testing for carcinogenicity, mutagenicity, teratogenicity, other chronic effects, environmental effects and epidemiology. The higher chlorinated benzenes, tri-, tetra-, and penta-, were added to the list in the ITC's Third Report, published in the Federal Register October 30, 1978 (43 FR 50630), and testing was recommended for the same effects.

The publication of today's proposal serves as EPA's response to the ITC's health effects testing recommendations for these chemicals. EPA previously responded to the ITC's designation of chloromethane and the lower chlorinated benzenes by publishing an explanation in the Federal Register that it was not yet prepared to initiate rulemaking for any of the chemicals designated in the first two lists (43 FR 50134, October 26, 1978; 44 FR 28095, May 14, 1979). However, a district court recently ruled that EPA's responses to the first two ITC lists did not meet the legal requirements of Section 4(e) of TSCA. *Natural Resources Defense Council* v. *Costle*, 79 Civ. 2411 (S.D.N.Y., Feb. 4, 1980). The court ordered EPA to submit a plan for complying with the ITC's designations; EPA submitted the compliance plan on March 6, 1980.

EPA's proposed compliance plan calls for EPA to publish Advance Notices of Proposed Rulemaking, proposed rules, or announce decisions not to test at sequenced intervals over the next four years. This plan was based on EPA's current process for developing test rules. Since the submission of the compliance plan to the Court, EPA has initiated a reexamination of the process by which EPA assesses ITC recommendations and issues test rules. EPA is seeking ways to issue test rules more rapidly and efficiently, and will submit a new compliance plan to the Court on September 15, 1980, reflecting the changes to be made as a result of this reexamination. EPA will publish the final schedule in the Federal Register. The schedule addresses both health and environmental effects. (Today's proposal does not include environmental effects, because the evaluation of environmental effects and proposal of environmental effects standards has not progressed at the same speed as for health effects.)

In general, because the ITC has designated all chemicals as having equal priority, EPA's schedule reflects its attempt to evaluate the ITC chemicals in the order that they were presented to the Agency. The availability of information and difficulty of assessment however, influence the order in which EPA will make decisions concerning ITC recommended chemicals. In addition, as is the case with the two chlorinated benzenes groups recommended by the ITC, the Agency may evaluate together several recommendations proposed by the ITC at different times.

III. Goals and Policy Considerations

A. Goals of Section 4 Implementation

In enacting TSCA, Congress expressed concern about how little is actually known about the health and environmental effects of exposure to the multitude of chemicals present in significant quantities in the environment. Thus, Section 4 of TSCA implements Congress' stated intent that "adequate data should be developed with respect to the effect of chemical substances and mixtures on health and the environment and that the development of such data should be the responsibility of those who manufacture and those who process such chemical substances and mixtures" [Section 2(b)(1)].

In fulfilling that intent, EPA has two primary goals: (1) to require testing of selected high priority chemicals to determine reliably whether or not such substances pose an unreasonable risk to health or the environment; and (2) to make such testing requirements as efficient and cost effective as possible.

To achieve this latter goal, EPA is pursuing several avenues. For example, the Agency is carefully reviewing the massive volume of comments on the proposed generic test standards to determine, among other things, whether any changes in the standards could eliminate any unnecessary specificity that may increase the cost of the test or the demand for trained personnel. Along the same lines, EPA will modify the generic test standards if necessary to make them suited to the particular chemical(s) contained in a Section 4 test rule. Thus, the standards for testing which the Agency adopts should be both scientifically sound and not unnecessarily costly.

EPA and other research institutions such as the Department of Health and Human Services' National Toxicology Program are also taking steps to stimulate the development of new and improved test methods. Such methods would ideally improve upon the scientific predictive power of current tests and lead to more cost-effective testing. For example, as sound hazard identification screening tests become available, EPA intends to prescribe sequential approaches to testing. Ideally, such a sequential approach would utilize the results of less expensive tests as screening aids to set priorities more knowledgeably and to reduce the need for conducting more expensive detailed tests.

Given the cost of testing and the limited testing resources available, EPA seeks to employ Section 4 testing requirements such that the maximum

amount of public health and environmental benefit can be achieved per unit of testing resource used. An example of this is EPA's intention, whenever it is scientifically appropriate, to limit the number of members within a designated chemical group that will be subject to Section 4 testing requirements. One way of accomplishing this is to sample structure-based category members based on the possibility that testing of a small number of category members can characterize the entire category. When this approach is possible, the testing resources saved will be available to evaluate a greater range of different chemicals.

Another approach, requiring testing for one effect at a time rather than one rule requiring concurrent testing for several effects, was considered as a means of saving testing resources. EPA has rejected this approach for two reasons. First, the length of time it would require to characterize potentially hazardous substances would likely lead to long delays in action to control exposure to such substances. EPA currently estimates that 4¼ years will be required to characterize the chlorinated benzenes for all effects for which testing is being proposed. Performing this testing in a sequence rather than concurrently would at a minimum require 9 years. Second, EPA believes that individual rulemaking would be required for each effect under this approach. Individual rulemaking for each effect would be a further resource burden for EPA and industry and would likely add an additional four years to complete the full test sequence making the total time 13 years.

B. Section 4(a)(1)(A) Findings

This discussion explains EPA's approach to each of the findings EPA must make before requiring testing under Section 4(a)(1)(A). Although this discussion is presented specifically in the context of health effects, the same principles apply to environmental effects as well. This discussion is not intended to address environmental effects since test for these effects are not included in today's rule.

1. *"May present an unreasonable risk".* As noted in Section I.A. of this preamble, one of the findings that the Administrator must make under Section 4(a)(1)(A) is that one or more activities involving a given chemical may present an unreasonable risk of injury to human health or the environment. This involves consideration of several factors; namely, that the chemical (1) may present a hazard, (2) may present a risk, and (3) may present an unreasonable risk. The distinctions between these concepts as well as EPA's approach, are described below.

(a) May present a hazard. EPA considers a variety of factors to be suggestive of the potential health effects or hazard of a substance. Sometimes, evidence of one effect suggests that another effect may occur. One common example of this is mutagenic activity, which is considered to be suggestive of oncogenic (carcinogenic) effects (e.g., results demonstrating a chemical's ability to produce mutations in bacteria (Ames test) are considered relevant to a consideration of oncogenic potential). Knowledge of a chemical's physical and chemical properties is also very helpful; these properties can indicate, for example, whether a chemical is likely to be excreted from the body or accumulate in fat tissue, causing long term effects. Another major clue is whether the chemical is structurally related to another chemical with known adverse health effects. Evidence of potential hazard may also be suggested by previous tests which resulted in inconclusive or unreliable results. Further, anecdotal and clinical reports of injury, may indicate that particular kinds of hazards may exist.

For most of these factors, and others not mentioned, EPA's conclusion that the chemical may present a hazard will not be based on definitive scientific data. This is inevitable; if EPA knew in detail the types of hazards a chemical posed, there would be no need to test. Thus, determinations of hazard potential under Section 4 by their very nature must involve reasonable scientific assumptions, extrapolations, and interpolations.

(b) May present a risk. EPA uses the term "risk" to include both hazard and exposure potential. The hazard potential of a chemical is only part of the risk equation. Because toxicity is of little concern to EPA if there is no human exposure to the chemical, EPA looks at both toxicity and exposure in determining whether to test or regulate chemicals. There is usually an inverse relationship between hazard and exposure—the more severe the potential hazard, the less exposure that is necessary to conclude that there is a potentially serious risk, and vice versa.

While there is a need to show a potential for exposure in order to make a Section 4(a)(1)(A) finding, the exposure threshold is much lower than that under Section 4(a)(1)(B). This is because the former (may present an unreasonable risk) finding was intended to focus on those instances where EPA has a scientific basis for suspecting potential toxicity and reflects that the potential for risk to humans may be significant even when the potential for exposure seems small as, for example, when the chemical is discovered to be hazardous at very low levels. In contrast, the 4(a)(1)(B) finding was intended to allow EPA to require testing, not because of suspicions about the chemical's safety, but because there may be substantial or significant human exposure to a chemical whose hazards have not been explored.

To make the "may present a risk" finding as part of a "may present an unreasonable risk" finding under Section 4(a)(1)(A), it is sufficient for the Agency to show that there is a reasonable likelihood that exposure may arise because of activities associated with the manufacturing, processing, distribution, use or disposal of the chemical. If evidence establishing that exposure actually has occurred were available, such information would be of obvious importance to the Agency in determining whether to require testing. (EPA's methodological approach to exposure assessment is set forth in detail in the Exposure Support Document.) However, monitoring or other specific exposure information will be unavailable in many cases and, therefore, the Agency will be compelled to rely upon reasonable conclusions about exposure potential.

(c.) May present an unreasonable risk. When it is found that a chemical "may present a risk," it is necessary that some consideration be made of the likelihood that the risk be unreasonable in order to require testing under Section 4(a)(1)(A). The term "unreasonable risk" is not defined in the statute. Congress specifically decided against defining "unreasonable risk," despite recommendations that it do so. Some guidance for making an unreasonable risk determination can be found in the House Report, however, which states that the determination of unreasonable risk is a judgement which involves balancing the severity of harm and the probability that the harm will occur against the effects of the proposed regulatory action on the availability of the benefits of the chemical. The report also states that the balancing process does not include a formal cost-benefit analysis and may reflect that a risk may be judged to be unreasonable if caused by a "lesser probability of greater harm" or "greater probability of lesser harm." [H. Rept. No. 94–1341, 94th Cong., 2nd. Sess., 7/14/76, at 13–14 Legis. Hist. 421–22.]

Thus, it can be concluded from both the legislative history and the use of the term in the statute that "unreasonable

risk" is not an inherent quality of a specific substance but is dependent upon a number of factors which must be considered in the context of a specific regulatory action.

It is clear that the Congress intended the test for unreasonable risk under Section 4 be much less stringent than under Section 6. [H. Rept. No. 94–1341, 94th Cong., 2d Sess., 7/14/76, at 14–15, Legis. Hist. 422–23.] Congress required only that EPA determine that a chemical *"may present* an unreasonable risk" under Section 4, not that the substance *does* pose an unreasonable risk, which is the requirement under Section 6 where a chemical is to be regulated. An unreasonable risk determination for purposes of Section 4 arises from an analysis that differs from such an analsysis under Section 6. In large part, this is because a test rule will not ordinarily deprive the public of the benefits of the chemial subject to the rule. Unlike Section 6 rules which could prohibit the manufacture and processing of the chemical, the economic impact of test rules is generally limited to the costs of testing.

The fact that EPA could not know the nature and extent of any risk before the testing is performed to determine the hazardousness of the chemical means that EPA could not in any case determine in advance what kind of regulatory options it would pursue. Such considerations are routinely discussed when EPA develops rules under Section 6, but in issuing test rules the Agency will not attempt to hypothesize the many control measures that might eventually be taken to reduce the risk of the tested substance if testing revealed that the substance posed an unreasonable risk. Because there are a large number of control options available with respect to nearly any substance and because the degree of risk shown by testing would affect the choice of control options, anticipating which ones would be adopted would be speculative. Under TSCA alone, there are a wide variety of regulatory options ranging from prohibition or restriction of the manufacturing, distribution, use or disposal of the product, to labeling, recordkeeping and reporting requirements. Authorities exercised by EPA other than TSCA as well as authorities exercised by other agencies such as OSHA could also be used and voluntary reduction or elimination of the risk could be undertaken by industry.

Therefore, EPA proposes to pursue the following policy for purposes of Section 4(a)(1)(A). If there is substantial evidence that exposure to a chemical may lead to a serious health effect or increase in mortality and that people may be exposed to the chemical, EPA will presume that the activities in question (manufacturing, processing, using, transporting, disposing) "may present an unreasonable risk" unless the rule is likely to result in a significant loss to society of the benefits of the substance. In the latter instances, if EPA's analysis shows that the costs of testing may cause manufacturers or processors to cease or severely restrict their commercial activities, EPA will weigh this potential adverse impact against the benefits of testing before presuming that the chemical may present an unreasonable risk. Whether this balancing is necessary will depend upon the economic impact of each rule. Because no such adverse impact is likely from this first rule, this area is not explored in depth.

A consequence of this policy is that EPA has considerable flexibility in making the exposure finding to support testing under Section 4(a)(1)(A). Thus, when serious effects such as oncogenicity, cardiovascular damage, teratogenicity, mutagenicity, or neurotoxicity are suspected, the exposure information on which EPA will base its findings may be quite limited. This flexibility seems well founded since, if the testing reveals a serious hazard, some restrictions undoubtably would be considered appropriate to reduce the risk when weighed against the alternative of doing nothing. Of course, economic, technological, and other considerations would influence the degree to which the risk could be reduced or eliminated. Even if there were an extraordinary case where no control options existed at present, the knowledge that people were exposed to a very hazardous chemical may create a substantial incentive to develop substitute products and processes.

2. Insufficiency of data. Whether EPA makes a risk-based [Section 4(a)(1)(A)(i)] or exposure-based [Section 4(a)(1)(B)(i)] finding in deciding whether to test, EPA must also find that there are insufficient data and experience upon which the effects of the chemical on health or the environment can reasonably be determined or predicted. This requirement was intended to assure that EPA would not demand unnecessary or duplicative testing. [*See,* e.g., H. REP. NO. 94–1341, 94th Cong., 2d Sess. (1976)].

EPA has taken several steps to ensure that the Agency does not require duplicative data from the proposed test rules. The Agency has sent a letter to all EPA offices and other Federal Agencies which requests information on the chemicals recommended to the Agency by the Interagency Testing Committee (a copy of this letter and the responses received by the Agency are available in the Public Record). The Agency has also pursued testing information on these chemicals through the National Toxicology Program whose Executive Committee includes representatives from other Federal Agencies. In order to further minimize the likelihood of requiring duplicative testing, the Agency intends to continue to seek out information which might affect final testing requirements after test rules have been proposed. In this context, the Agency has proposed (44 FR 77470 Dec. 31, 1979) a rule under Section 8(d) which will require the submission of any unpublished health and safety studies on chemicals recommended by the ITC.

In the main, however, EPA's current approach to making this second finding has been to review the literature to see whether studies have been done for the effects under consideration. EPA has critically evaluated the design, execution and results of each relevant study to determine whether the study alone, or in combination with others, provides sufficient data to assess the chemical's hazards; that is, does the available information provide the basis for defining the hazard component of a decision whether the chemical does or does not present an unreasonable risk? Much of this analysis has been done in conjunction with the determination that the chemical may present an unreasonable risk since the combined effect of the Section 4(a)(1)(A)(i) and 4(a)(1)(A)(ii) findings is the determination that existing information is sufficient to raise the question of potential risk but insufficient to resolve it.

EPA recognizes that many existing studies do not provide the degree of accuracy or the amount of information that EPA would like. EPA does not require that existing studies meet current EPA test standards in order to be accepted as sufficient. In deciding whether it is necessary to seek further testing for effects for which some data exist, EPA has considered such factors as the benefits of obtaining more data and greater certainty, the likelihood that additional testing would resolve any uncertainties, the cost and economic impact of new testing, the nature of the effects of concern, and competing testing priorities for other chemicals about which even less is known. When EPA does conclude that the data are insufficient and more testing is needed, it may be because the studies that have been completed have resulted in

equivocal results, or because the existing studies, whether of good or bad quality, do not furnish enough information for EPA to judge the magnitude of risk to people who are or may be exposed to the chemical or to estimate a level below which the risk can be reduced to a reasonable level. Thus, EPA may determine that testing is necessary to obtain additional data on dose-response relationships, on different animal species, or for some other similar reason. At the same time it is proposing testing, EPA may pursue interim regulatory measures in appropriate instances if the existing information indicates a risk significant enough to justify that course while additional data are being developed. The decision about when to seek a more complete data base necessarily will be determined by the facts pertaining to the particular chemical under consideration.

One final consideration to note is that EPA recognizes that the burden of proof to demonstrate that a chemical has no effect is greater than that to demonstrate that there is an effect. Therefore, EPA pays particularly close attention to the possibility of "false negative" results. "False negative" is a statistical concept used to describe instances in which it is wrongly concluded that a chemical does not cause an adverse effect. This can happen where a test is designed or conducted in such a way as to preclude its detecting toxic effects occuring at levels that might be significant in terms of human exposure. For instance, in a test where a chemical is fed to 50 animals, and a 5 percent significance level is used to judge the results, if the chemical is one which causes cancer at the dose administered in only 10 percent of the animals, there is somewhat more than a 50 percent probability that the test results will not reveal that the chemical causes cancer. (The significance level of a test is also the probability of a false positive, an instance where it is wrongly concluded that the chemical does cause an adverse effect.) Thus, the absence of observed effects in such a study could not be relied upon to support the conclusion that the chemical is not harmful. Were the sensitivity of the test (ability to detect effects) improved (for example, by increasing the number of animals) more confidence could be attributed to the negative results. Thus, it is very important that EPA carefully assess negative findings before concluding that the existing data are sufficient and further testing is unnecessary.

3. *Necessity for testing.* Before the Administrator may issue a final test rule under TSCA Section 4(a)(1)(A), he must find that the testing that will be required "is necessary to develop such data," that is, that the testing ordered needs to be undertaken, and if undertaken will provide data relevant to a determination as to whether activities involving the chemical present an unreasonable risk of injury to health or the environment.

The first aspect of this finding will largely flow from the previous determinations that there are insufficient data and experience to reliably determine or predict the chemical's effects and that there is a basis for concern as to the possibility of such risks. In addition, the Agency must take into consideration ongoing testing of a chemical in determining whether additional testing should be required. In order to do that, EPA has examined the protocol and any interim data results of each relevant ongoing study known to the Agency to decide whether the study is likely to produce data which would obviate the need for further testing. The same considerations used by the Agency in evaluating whether there are sufficient data and experience to assess the chemical have been used to evaluate the adequacy of ongoing testing. Where EPA has been able to conclude that the ongoing study is likely to meet its needs, there is no need to require additional testing. However, if the final data ultimately generated by the ongoing study do not allow EPA to carry out a reliable risk assessment, EPA at that time will reconsider its decision not to propose a rule. Where EPA's review of an ongoing study indicates that serious defects in the design or execution of the study already exist that are likely to prevent an adequate assessment of the risk upon receipt of the final data, EPA may require additional testing immediately.

There are alternatives to this approach. EPA could, on the grounds that there was no assurance satisfactory data would be produced, disregard tests currently being performed in deciding whether to require testing. EPA has rejected this course since it could lead to a significant and unnecessary misallocation of resources. Alternatively, EPA could automatically defer a decision about whether to require testing until after data have been submitted from the ongoing study. This option has also been rejected; defects in the ongoing test may be immediately apparent so that reliance on it could unjustifiably delay the development of reliable data for many years, to the detriment of the public health.

After concluding that there is a need to develop data, EPA must also evaluate whether testing is capable of developing the necessary information. Even if the Agency finds that a chemical may pose a risk from a particular effect, and that there are insufficient data and experience, EPA cannot order a chemical to be tested if no testing methodology exists which would lead to the production of the necessary data. Similarly, when EPA cannot find a suitable cohort for an epidemiology study it is unable to require such testing. The publication of a test standard for a particular effect constitutes EPA's finding that tests conducted according to that standard are capable of providing the needed data. Although EPA has not chosen to do so in this rule, in future rules, EPA may propose testing for effects for which standards are not yet proposed and reopen the comment period on the test rule, if necessary, to provide adequate opportunity for comment after proposal of the test standards. EPA also may adopt a standard for a particular chemical without addressing the broader question of its application as a "generic" test standard. Finally, in addition to its own efforts to develop test standards, EPA may initiate or recommend to other groups the initiation of research aimed at developing the information or methodologies whose lack currently precludes testing.

C. Choice of Test Material

In determining what chemical form to prescribe for testing, EPA will employ a case-by-case approach.

EPA wishes chemicals to be tested that are representative of a broad range of products which contain the chemicals and their exposure situations. To test separately the thousands of individual products containing a commercial chemical would be prohibitively costly, time-consuming, and unnecessary. Generally, for regulatory purposes, data on one commercial grade of a chemical are considered representative of the toxicological properties of other grades of the chemical.

In specific cases, however, EPA may wish to have a purer than commerical grade tested. Examples of such situations are, first, when a contaminant or impurity in the commercial products also is suspected of causing the toxicological effect of concern and is likely to interfere significantly with the ability of the test to determine whether the primary component alone causes the effect. A second case involves those circumstances in which the Agency wishes to test only a few members of a chemical group and extrapolate the results to other members of the group. In this instance, a purer form of the test chemicals could result in fewer

confounding factors when extrapolating in structure-activity analysis.

D. Use of Categories

Section 26(c) of TSCA states that:

> Any action authorized or required to be taken by the Administrator under any provision of this Act with respect to chemical substance or mixture may be taken by the Administrator in accordance with that provision with respect to a category of chemical substances or mixtures.

Chemicals may be classified as a category in any way "suitable * * * as such for purposes of this Act" except that chemicals may not be grouped together as a category solely on the basis of their being new chemicals [TSCA § 26(c)].

Thus, the Agency may use the authority granted in Section 26, in conjunction with the provisions of Section 4, to require the testing of chemical categories by the manufacturers and/or processors of the chemicals in that category. Categories may be closed (containing a finite number of chemicals) or open (containing a potentially infinite number of chemicals). Closed and open categories may contain both "new" and "existing" chemicals. "Existing" chemicals are those on the chemical inventory developed under Section 8(b) of the Act; "new" chemicals are not on the inventory and the Agency must be notified under Section 5 at least ninety days before they are to be manufactured commercially.

There are various types of appropriate groupings that could constitute a category under TSCA. For example, categories may be structurally based, or may be based on exposure considerations or usage patterns. Because the category contained in this test rule (the chlorinated benzenes) is a structurally-based one, this discussion is focused on treatment of such categories. Because this category is a closed one, all of whose members appear on the TSCA Inventory, the relationship of the Section 4 testing requirements to the Section 5 requirements for new chemicals falling within a category under a Section 4 test rule is not explored in this discussion.

The three findings that EPA must make under Section 4(a)(1)(A) were discussed in Section III.B. They relate to (i) potential unreasonable risk, (ii) insufficiency of data, and (iii) a need to test to generate data. These findings could be made on an individual chemical basis or a category basis. EPA believes the Section 4(a)(1)(A) findings can be made for the entire category (generic finding) rather than for each specific category member (chemical-specific finding). The basis of this view is the language of Section 26(c) which states that "any action * * * required to be taken * * * with respect to an individual substance * * * may be taken with respect to a category of substances * * *."

In the case of a structure based category, the structural features that are presumed to give rise to a hazard that leads to the potential risk are generally a characteristic for category membership. Such categories satisfy the Section 4(a)(1)(A) criteria if there is also potential exposure to the members of the category and if there are insufficient data to evaluate the category.

In making the Section 4(a)(1)(A)(i) part of the findings EPA recognizes that production and exposure among members of a chemical family will vary; some may be produced in small quantities or appear only as by-products, while others may be produced in millions of pounds per year. All members may be of concern however. By-products, for example, which are not commercially produced may nevertheless result in significant exposure if they remain in commercial chemicals as impurities or if they are separated and not properly disposed of. Other substances may not be produced currently but could well serve as substitutes for those chemicals now in commercial production. EPA will consider these kinds of factors when proposing a category definition and will exclude a chemical from the requirements of the final rule if data are provided during the public comment period which indicate that a chemical included in a proposed category does not meet Section 4(a)(1)(A)(i) criteria.

EPA plans to make the Section 4(a)(1)(A)(ii) finding on a category basis as well. EPA recognizes that there may be sufficient data on certain effects for some members of the category, and that, consequently, under such circumstances it may be unfair to require all manufacturers and/or processors of chemicals in the category to bear equal responsibility for testing the representative sample. However, EPA believes that questions of financial responsibility are best resolved in reimbursement proceedings and do not affect the Section 4(a) findings; however, EPA would exclude from the Section 4(a) category those individual chemicals for which there were sufficient data on all effects.

The last finding (Section 4(a)(1)(A)(iii)) requires EPA to conclude that testing is necessary to develop the missing data. In the case of a structure-based category, EPA believes that testing of each member is not necessary to achieve that end if a representative sample can be selected that will enable EPA to evaluate the whole category.

It is important to note that in many cases other categories besides the one chosen by EPA may be capable of definition. For instance, EPA may choose to limit the category definition so as not to include all chemicals that have in common a particular characteristic which could permit them to be grouped together. Such factors as the amount of time necessary to analyze data relating to a category may influence the Agency's decision as to how broadly the category should be defined, even if the category could be more broadly defined using the same or similar factors for delineating category membership.

As discussed in Section III.A. of this document, for policy reasons EPA generally will seek ways to avoid requiring full-scale testing on all members of a structure-based category. Scientifically, testing all members of the category would provide the most information about the category. However, EPA's approach of requiring testing of only some members of a structurally-based category:

(a) Avoids overloading test facilities and personnel with testing relating to only one category, thereby allowing testing for significantly more chemical substances or categories;

(b) Reduces the potentially adverse economic effects of concentrating testing requirements on a small segment of industry, an impact which might result from requiring testing on all category members;

(c) If a proper sampling approach is taken, (1) may permit reasonable scientific extrapolation based on the data received, enabling assessment and, where appropriate, regulation of the category (or appropriate subsets) without the necessity for conducting full-scale testing on all of its members, and (2) should provide guidance on which additional chemicals should be tested if it is concluded that further testing is needed.

EPA has carefully considered various approaches which it might utilize to sample structurally-based categories. From an economic and regulatory support standpoint, production volume alone could serve as a useful single factor for determining which substances should be tested. All substances within the category produced in excess of some arbitrary amount (such as one million pounds) could be tested. This would generally serve to produce information on the individual chemicals for which the economic impact of testing would be lowest and, to the extent that production volume correlates with exposure, the

potential for subsequent regulation the highest.

On the other hand, from the scientific standpoint of characterizing the effects of the category as a whole, sampling based solely on production volume may produce a biased sample. The scientific goal should be to select a sample that would provide the most information about the entire category. Furthermore, it is also more economical to get the most information per testing dollar spent, a goal that can best be achieved by careful sample selection.

Other variables could be factored into a sampling decision. The use of the substances, particularly as it affects exposure, might be taken into consideration. Market economic factors could also be considered. For example, it might be considered preferable to test a lower volume chemical with a relatively inelastic demand curve (i.e., even a large rise in price would only cause a small drop in demand) than a high production chemical with an extremely elastic demand curve (i.e., a small increase in price would cause a huge drop in demand).

When EPA analyzed this issue, it did so keeping in kind the ultimate planned use of the data derived from test rules, i.e., support of risk assessment. EPA has decided for policy reasons that the primary goal of testing a structure-based category should be to develop data that will allow the Agency to make regulatory or unreasonable risk decisions *concerning the category as a category*, rather than making such decisions for the individual category members as individual chemicals. The Agency, therefore, has adopted as its preferred approach under Section 4 of TSCA one whose goal is to develop data that are likely to be capable of extrapolation to all category members or to an appropriate subset, and to enable EPA or other regulatory agency to take control action without testing each category member.

The action which EPA takes on a structure-based category as a result of data obtained on the test sample will vary depending on the nature of the test data. If, for example, all members of the test sample produce negative results on the required tests, no further testing of the untested category members would generally be required. If all members of the test sample produce a consistent pattern of positive results on the required tests, the category as a whole will be assessed for regulatory action on the basis of these results. In this case EPA does not anticipate requiring further testing. The situation becomes more complex when the test data in the sample show mixed results. In this case, EPA will assess the aggregate test results to see what further action should be taken.

The importance of extrapolation of data from a tested sample does not mean that factors such as production volume and exposure are irrelevant in the selection of a test sample. EPA must ensure that adequate data are generated to support possible regulatory action against those chemicals that pose the greatest risk within a given structural category, which are likely to be those chemicals with the highest exposure potential. Thus, EPA will balance the need to characterize the entire category with the need to have a solid data base on the highest production and/or exposure members.

While EPA favors an approach based upon a sampling of category members, there will undoubtedly be situations where limited testing on all category members (e.g., acute toxicity, metabolism, or short-term mutagenicity screens), might be required in order to help further delineate the category for ultimate assessment purposes. In addition, metabolism and related testing may be warranted in some cases to provide an additional empirical basis for relating the results for tested chemicals to untested members of the group. The decision as to when to utilize such an approach cannot be made as a matter of generic policy, but must be made on an *ad hoc* basis. The factors relevant to these determinations include the number of members in the category, the closeness of the structural relationship among category members, the currently available information on category members, and the availability, suitability and cost of such tests.

In addition to the considerations described above, a central element of EPA's approach to structure based categories is the relationship between the selection of the test sample, the Section 4(a) findings, and exemptions and reimbursement. These factors are closely linked so that the approach to one affects the approach to the others. EPA is proposing one approach and considering two alternative approaches to testing, exemptions and reimbursement in conjunction with categories under TSCA Section 4. EPA may adopt any one of these in the final rule.

The proposed approach has been selected as most compatible with EPA's goal of characterizing an entire category on the basis of test results from a sample of category members. In this approach manufacturers and processors of members of the category would not be responsible for testing the individual compounds which they manufacture or process but would be jointly responsible instead for testing a sample which EPA has selected as representative of the category. To illustrate this concept, if there were a category of seven compounds (1,2,3,4,5,6,7) which EPA believes could be adequately characterized by testing only four of the seven compounds, EPA, would require that all manufacturers and processors of the seven chemicals bear equal responsibility for testing compounds 1,3,5 and 7. The Section 4(a) statutory finding would be made for the entire category.

Equivalence of the sample and other category members would be assumed by EPA in proposing such test rule. This equivalence would not be on a one-to-one basis as it is for individual chemicals, such as where the manufacturers of chemical 1 assert equivalency based on the data developed on chemical 2. Rather, the sample as a whole would be considered representative of the category on the hypothesis that test results on the sample can be used to evaluate the chemicals which comprise the category. Equivalency may not exist between individual members of the category but the sample would be expected to provide sufficient data to evaluate the category as a whole.

This "whole category" approach to testing does not discriminate between manufacturers and processors whose chemicals are tested and those whose chemicals are not. Unlike Alternative 1 discussed below, the responsibility for actually funding testing falls equally on both during the course of the testing. Industry could respond to such a test rule by dividing the testing among themselves. Each firm would then apply for an exemption for those portions of the testing which it did not perform and reimburse the sponsors of such tests. A second and probably preferable response would be to form a consortium for joint sponsorship of testing.

This approach is perhaps the best alternative when the hypothesis that the category can be characterized by the sample holds. However, if this hypothesis does not hold, this approach may present considerable administrative difficulties. If chemicals 1,3,5, and 7 do not give results that could be extrapolated to chemicals 2,4, and 6, manufacturers and processors of chemicals 2,4, and 6 most likely would be reluctant to share the cost of testing chemicals 1,3,5, and 7. However, to permit or require a refund to manufacturers and processors of 2,4, and 6, EPA would have to require manufacturers and processors of 1,3,5,

and 7 to reimburse the manufacturers and processors of 2,4, and 6 for the money they already received. As a consequence, the costs to manufacturers and processors of 1,3,5 and 7 would be higher than they had originally anticipated.

EPA would also have to decide whether to require testing of any or all untested category members. If the category no longer held together from the standpoint of health or environmental effects, EPA most likely would amend the rule to treat category members as individual chemicals for purposes of both existing and new testing requirements under Section 4(a), exemptions, and reimbursement.

An alternative approach (Alternative 1) would require testing of all category members but would specify that such testing be done in two or more stages with the chemicals selected for the sample designated for testing in first stage. In this alternative, each manufacturer or processor of a chemical in the sample is responsible for testing his own chemical. The Section 4(a) findings would again be made for the entire category. And, as in the proposed approach, the criteria for sampling would be based primarily on the potential that the designated would be structurally representative of the whole category. The category members not in the sample would be tested in the subsequent stages if the test results from the first stage could not be used to characterize the remaining category members. EPA would write the test rule in such a way that the requirement to conduct the second stage of testing would take effect automatically a specified number of months after the data from the first group were received. At this point, manufacturers and processors of the untested members of the category would obtain exemptions and reimburse those who conducted the first round of tests, or, if the data could not be extrapolated to the untested members, conduct their own testing.

To illustrate, if there were seven members in the category, and the first sample consisted of chemicals 1,3,5 and 7, producers of chemical 1 would pay for the testing of chemical 1, producers of chemical 3 for 3 and so forth. If the data from those tests were then used as a basis for granting exemptions to chemicals 2,4, and 6, producers of 1,3,5 and 7 would be partially reimbursed for their costs at that time. Reimbursement would be based on sharing of all costs among the manufacturers and processors of all chemicals.

This approach simplifies the reimbursement process by avoiding the redistribution of funds that would be provided for in the proposed approach if the category were not characterized by the test sample. However, there are disadvantages to this approach as well. First, this approach does not accurately express EPA's intentions with respect to testing categories in a majority of circumstances. EPA does not generally intend to test all members of a category, even when the category is not characterized by the test sample, because EPA believes the public is better served by testing a wider range of chemicals than exhaustively characterizing a number of closely related substances. Second, this approach is inapplicable to large or open-ended categories. EPA could not actually require testing of all members in such categories due to the immense resources required. (Open categories are potentially infinite in size even though the number of known category members is finite.) Finally, the simpler reimbursement that this option offers results in a disadvantage to those manufacturers and processors who are required to test in the first stage because they receive no reimbursement from the other manufacturers and processors in the category until the end of testing. On the other hand, persons sponsoring the initial testing do not have an automatic entitlement to reimbursement; they are responsible for testing their own chemicals and receive reimbursement from producers of chemicals 2,4, and 6, only if the data described from the first stage prove to be relevant to 2,4, and 6.

A variant that would avoid the latter problem would be to require testing of chemicals 1 through 7 in a single stage with each manufacturer or processor responsible for testing his own chemical, but to grant conditional exemptions to producers of chemicals 2,4, and 6 that could be revoked if the data from 1,3,5, and 7 could not be extrapolated to 2,4, and 6. Persons would be required to provide reimbursement on the basis of the conditional exemption. However, if the data from 1,3,5, and 7 could not be used to characterize 2,4, and 6, this variant would entail the same administrative problems concerning reallocation of money as the approach EPA is proposing.

Alternative 2 to testing categories lies at the other end of the spectrum from the proposed approach. In this approach the chemicals may be analyzed as a category for determining potential hazard or risk, but are tested as individual chemicals. The Section 4(a)(1)(A) findings are made only for the chemicals to be tested.

Using this approach, if EPA believed that laboratory or economic resources should not be expended on testing the whole category, EPA would again choose a smaller number of chemicals to be tested. However, the emphasis in choosing them would be on those likely to pose the greatest risk, and not on the chemicals that were most likely to provide data representative of the category. Primary emphasis would be given to testing the chemicals suspected of the highest toxicity or produced in the greatest quantities or resulting in the most exposure. However, consideration of structural representation of the category would influence the sample, particularly if there were a choice between testing two of the most high-exposure (risk) chemicals and one was considered to be more representative of the category.

If chemicals 1,3,5, and 7 were the ones selected for testing, only manufacturers and processors of those chemicals would be subjected to the rule and required to test. Manufacturers and processors of 1 would share the cost of testing only 1. While persons producing chemicals 2,4, and 6 would not be required to test or reimburse producers of chemicals 1,3,5,7, this would be chosen for testing primarily or solely on their own merit, and not as a representative sample of 1,2,3,4,5,6, and 7. While the data produced from chemicals 1,3,5, and 7 may be relevant to evaluating 2,4,6 and would be evaluated in that light as well, the operating presumption would be that 1,3,5, and 7 would be tested as individuals, and that any additional benefit to be gained from them as "representatives" would be useful but not central to their selection for testing.

An advantage of this approach is its administrative simplicity. Further, it would assure that those chemicals which warrant the most concern are tested. A disadvantage is that less information may be gained about the category as a whole because of the deemphasis on choosing a sample that would be "representative." The emphasis on testing individuals would likely make it harder to have an effective link between section 4 and the premanufacturing notification requirements of section 5 of TSCA, although EPA could pursue such options as defining criteria specifying when other existing or new chemicals in the chemical group would be tested.

In conclusion, there are clearly many factors that will bear upon the selection of the final approach. Among the most important considerations will be the following: (1) how the section 4 findings, the category definition, and the choice of test substance interact, (2) how to

maximize the amount of information obtained for the lowest cost, (3) concern for financial equity: who pays for the testing and at what point in time, (4) how to minimize the administrative problems of reallocating money, and whether the rule will need to be amended if exemptions are revoked or if money is to be reallocated, and (5) the degree to which a sample may be representative of the category.

Certain provisions could be implemented with any approach to address potential inequities or other problems. For instance, a provision could be attached to the proposed option to limit a manufacturer's or a processor's testing costs so that he would pay no more than the amount that would be paid if testing were required on an individual chemical basis. This could be addressed in the reimbursement rule.

EPA is requesting comments on each of these alternatives.

E. Responsibility for Testing

As discussed in Section I.E. of this preamble, Section 4(b)(3)(B) of TSCA requires that EPA designate which activity in the life cycle of the chemical gives rise to the exposure that forms the basis of the Section 4(a)(1)(A) or Section 4(a)(1)(B) finding. However, if the exposure may result from both manufacturing and processing activities, findings concerning potential exposure from the chemical's distribution in commerce, use, and/or disposal may, for practical purposes, be irrelevant under Section 1(b)(3)(B). This is because the conclusion that distribution, use, or disposal may or may not result in exposure does not affect a manufacturer's or processor's responsibility to test if it is already required to do so because of exposure arising from its own manufacturing or processing activities. However, if the exposure potential arises from activities further downstream, findings concerning distribution, use and disposal will be important.

EPA will utilize the same approach to exposure for purposes of Section 4(b)(3)(B) as it does for assessing exposure potential for the purpose of making Section 4(a)(1) findings. As in the case where findings are made under Section 4(a)(1)(A), if EPA has information showing actual exposure, the Agency will use it; but if such data are unavailable, EPA will utilize the data that exist to make reasonable deductions concerning exposure potential. (See Support Document on Exposure.)

In most cases, EPA expects that other activities besides manufacturing may present exposure opportunities and, therefore, an exposure risk, so that processors will usually be required to test along with manufacturers. This may present practical problems, however, because the statutory definition of processing is quite broad. Section 3(11) of TSCA defines a processor as "any person who processes a chemical substance or mixture." The term "process" is in turn defined in Section 3(10) to mean

The preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce—

(A) In the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance or mixture, or

(B) As part of an article containing the chemical substance or mixture.

("Processor" means any person who processes a chemical substance or mixture.) It should be noted that the term "processor" under TSCA has a much broader meaning than the common or industry's meaning. The following examples illustrate activities that would cause a person to be considered a processor under TSCA.

Example 1. A person reacts chemicals X and Y to produce a new chemical substance, Z. This person is a processor of X and Y and a manufacturer of Z. This example is closest to industry's meaning of the term.

Example 2. A person who purchases or manufactures chemicals and then mixes or reacts them is a processor of each chemical if the mixtures or compounds are distributed in commerce. Processors that fall within this example include producers of paints, automotive products (e.g., antifreeze, oil additives, etc.) and specialty cleaners and floor wax preparations. This example covers a large segment of the processor class.

Example 3. A person who heats and mixes powdered resins, fillers, pigments, and plasticizers to form a homogeneous mix which is then formed into sheets of a desired thickness would be a processor of each component because the components are distributed in commerce as part of an article. Tire manufacturers and producers of rubber and plastic articles would fall within this example. Processors in this example are similar to those in example 2, except that the products that are distributed in commerce are articles rather than chemicals.

Example 4. A person who purchases steel cans and then coats the cans with a resin would be a processor of the resin, since the resin is now a part of an article which is distributed in commerce. Similarly, a person who purchases printing ink and then applies the ink to paper or boxes would be a processor of the ink which has become a part of an article. Also tanneries and textile mills would be processors of the dyes used to color the leather and fabric. Persons in these examples add chemicals to previously produced articles.

The above examples are not meant to be inclusive. They are only provided to illustrate the breadth of the TSCA definition of processor and assist persons in determining whether their activities fall within the TSCA meaning of "process". The 1977 Census of Manufacturers indicates that there are approximately 11,000 establishments in Standard Industrial Classification (SIC) 28, Chemicals and Allied Products. Examples 1 and 2 would fall within SIC 28. Processors in example 3 are in SIC 30 Rubber and Miscellaneous Plastic Products, and number approximately 12,000 establishments. The types of processors in example 4 are in SIC 27 Printing and Publishing, SIC 226 Textile Finishing SIC 3111 Leather Tanning and Finishing, and SIC 3479 Metal Coating and Allied Services, and account for approximately 45,000 establishments.

The Agency is concerned that, if all processors covered by the Act were subject to a test rule, there would be difficulties experienced by both EPA and the industry in administering the exemption and reimbursement provisions of TSCA Section 4. Consequently, EPA has examined various alternatives for exempting certain kinds of processors from all test rules or specific ones. Examples of them are (1) excluding some processors from coverage on the basis that their principal activity is not of a nature that has traditionally been considered processing within the chemical industry, (2) restricting coverage of the rule to members of the chemical industry, e.g. SIC 28., (3) excluding processors who incorporate the substance or mixture into an article of commerce, (4) excluding all processors downstream of the point at which the subject chemical is reacted or formulated into a substance or mixture with a new identity, and (5) excluding those processors who are small businesses.

Each of these has substantial advantages and disadvantages, and EPA does not attempt to resolve them in this proposal. At a public meeting on September 25, 1979, and in subsequent conversations, members of the chemical industry expressed an interest in deciding how to allocate costs and testing responsibilities most fairly. Although the comments recently

submitted by the Chemical Manufacturers' Association on the advance notice of proposed rulemaking on data reimbursement deal with this question they do not offer a solution to the problem of who is subject to the rule. EPA is requesting comments on the approach which it should take under Section 4 with respect to processors, including comments on the five alternatives listed above and any other approaches which would limit the applicability of Section 4 test rules, yet be equitable and provide flexibility.

F. Reporting Requirements and Deadlines

In the proposed health effects standards, EPA proposed requiring study plans and quarterly reports for chronic and reproductive effects, and final reports for all effects (44 FR 27351, May 9, 1979; 44 FR 27351, July 26, 1979). Based upon the experience EPA has gained in the last year in developing this rule and an exemption policy, EPA is now proposing to expand the study plan requirement to all effects and to require the submission of additional information. The new requirements are proposed not only as part of today's rules for chloromethane and the chlorinated benzenes but as part of the generic test standards which apply to all chemicals subject to Section 4 test rules. Hence, this discussion is intended to serve as notice of EPA's intent (1) to modify Sections 772.113–1(f), 772.116–3(c), and 772.100–2(6)(2) of the proposed test standards to include the changes discussed below, and (2) to propose that Study Plans be submitted for the other effects for which standards were proposed at 40 CFR 772.

• Study Plan requirements. The study plan requirement as originally proposed and as modified today is intended to serve two primary purposes. First, the various test standards referenced in this rule provide varying degrees of specificity concerning test methodology. Study Plans containing the information described above will assure the Agency that testing which is being undertaken comports with applicable test standards. This will permit the Agency to fulfill its general responsibility to assure that testing is performed pursuant to the rule. It will also allow EPA and the test sponsor to discuss areas of mutual interest that are not specifically covered by this rule. EPA cannot formally reject Study Plans, but can reject final reports based on inadequacy of testing methodology (i.e., failure to comply with the test standard). However, the Agency would prefer to avoid the waste of resources, loss of time, and controversy that rejection of final reports would entail.

A second reason for requiring submission of Study Plans is to permit the granting of exemptions to test rule requirements under Section 4(c) of TSCA. As described previously, the Agency may grant an exemption only if it finds that the testing would be duplicative of data already submitted or being developed pursuant to the test rule. In the case of data already submitted, this finding can be addressed in straightforward manner. If the exemption request is based upon duplication of testing in progress or about to be undertaken by some other person, then the Agency plans to base its decision on a review of the relevant Study Plans. These plans will enable EPA to find that further testing would be duplicative and that testing will be conducted in accordance with the test rule.

The previously proposed study plans do not meet EPA's exemption-related needs adequately. There is no requirement to submit study plans for most effects even though EPA intends to use the plans to decide whether or not to grant an exemption. Thus, EPA is proposing to require submission of study plans for all health effects. However, in contrast to the previously proposed requirement to submit study plans 90 days before the initiation of testing, EPA does not intend to require early submission of study plans for health effects other than chronic or reproductive effects. EPA believes that for shorter tests a required 90-day early submission may be unnecessarily disruptive to the conduct of the tests, thus, EPA will require that Study Plans be submitted no later than the initiation of testing, with a request that they be supplied in advance of testing to permit their early review.

The other change to the Study Plan requirement entails the submission of more information than that proposed previously. EPA now proposes to add the following requirements (1) identification of the test rule, (2) in the case of joint sponsorship, the identity of the principal sponsor and other sponsors, (3) where applicable, a description of the culture medium and its source, and (4) for test rules which require submission of equivalence data for exemptions, (a) an attestation that the substance manufactured or processed is equivalent to the test substance and (b) information on the process by which the test substance was manufactured. The information to be submitted as part of the proposed Study Plans requirement is set forth in full below.

(a) All Study Plans are required to contain the following information:

(1) Identity of the test rule.

(2)(i) The name and address of the test sponsors.

(ii) The name, and address of the responsible administrative officials and project manager(s) in the principal sponsor's organization.

(iii) The name, address, and telephone number of the appropriate individual for oral and written communications with EPA.

(iv) (A) The name and address of the testing facility including responsible administrative officials and project manager(s).

(B) Brief summaries of the training and experience of each professional involved in the study including Study Director, Veterinarian, Toxicologist(s), Pathologist(s) and Pathology Assistants.

(3) Identity and data on the substances or mixtures being tested including appropriate physical constants, spectral data, chemical analysis and stability under test and storage conditions.

(4) Study protocol information as required in Part 772 including information describing the culture medium and its source, if applicable.

(5) Schedule for initiation and completion of major phases of long term tests, schedule for submission of interim progress and final reports to EPA.

(b) If a demonstration of equivalency is required in order to obtain exemptions from testing, sponsors will have to attest that the chemicals which they manufacture or process are equivalent to the test substance and describe the process by which the test substance is manufactured.

The reasons for these additional requirements are discussed in the Proposed Statement of Exemption Policy and Procedures published in today's Federal Register.

• Interim Quarterly Summary Reports. The requirement to submit "Interim Quarterly Summary Reports" for long term studies was proposed in the Federal Register on May 9, 1979, (44 FR 27339, and 27351). Such reports are intended to provide the current status of the study including all significant findings and problems as well as resolutions initiated or proposed. As discussed in the statement on Exemption Policy, EPA has the authority to terminate exemptions from test rule requirements based upon a finding that the sponsor engaged in testing has not complied with the test rule. Periodic interim reporting will enable EPA to continually monitor compliance with the

test rule so that, if necessary, appropriate action can be taken without unnecessary loss of time.

• Final Test Reports. EPA has published in the Federal Register on May 9, 1979 (44 FR 27334) and July 26, 1979 (44 FR 44054) the requirements for the Final Test Reports as a part of the proposed test standards.

• Time Period. EPA is required by TSCA Section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. In determining deadlines for submission of Study Plans, Interim Quarterly Summary Reports (where applicable), and Final Reports for each type of test, EPA has considered and allowed a reasonable amount of time for a number of factors which will effect the time period needed for satisfactory testing. These factors include coordination among persons subject to the rule to permit agreement on joint testing programs; development of Study Plans; set-up and execution of required tests; analysis of test results; and preparation of Final Reports. The time frame for these factors as they relate to each type of health effects test are detailed in Table 1. In each case, the final test rule will specify an elapsed-time date by which all Final Test Reports must be submitted to EPA, calculated from the effective date of the test rule. EPA believes that the time periods which are being proposed will allow ample opportunity to satisfactorily comply with the test rule (see Sections VI and X).

The Agency encourages a coordinated response from persons subject to the rule and has allotted time for such coordination for each proposed schedule. A coordinated response might take the form of joint sponsorship of testing or coordinated submission of Study Plans and requests for exemptions. EPA believes that the utilization of such mechanisms by persons subject to the rule will lead to more efficient use of both sponsor and EPA resources.

Table 1

Chemical and required tests	Chloromethane		Chlorinated benzenes			
	Oncogenic effects	Structural teratogenic effects	Oncogenic effects	Structural teratogenic effects	Reproductive effects	Subchronic/chronic effects
Activities and Allotted Times (months):						
1. Coordination among test Sponsors	1	1	1	1	1	1
2. Study Plan Preparation[2]	8	4	8	4	5	3
3. 90-day Pre-test Reporting Requirement	3		3		3	
4. Test Performance[1]	30	1½	30	1½	14	13
5. Analysis of test results, preparation of Final Report	11	4½	11	4½	6	5
6. Final Report Deadline	53	11	53	11	29	12

[1] Time periods reflect time to perform tests in accordance with EPA's test standards.

[2] Study Plan Preparation: The time period allotted for Study Plan Preparation for each testing requirements is discussed below and is designed to permit the necessary activities precedent to initiation of the required testing. These activities vary among the different testing requirements, but generally involve such things as acquisition and acclimation of test animals and performance of "range-finding" tests to determine appropriate dose levels.

(i) Oncogenic Effects:

Activities:	Time allotted (mos)
Acquisition and acclimation of test animals; preparation of test protocol and performance of four-14 day acute toxicity range-finding tests; preparation of protocol for subchronic toxicity range-finding tests	2
Performance of subchronic toxicity range-finding tests	3
Performance of pathology analysis of subchronic test animals; selection of dose levels for chronic toxicity tests; acquisition of test animals and development of Study Plan for chronic toxicity tests	3
Total	8

(ii) Structural Teratogenic Effects:

Activities:	Time allotted (mos)
Acquisition and acclimation of test animals; preparation of test protocol for acute range-finding tests	2
Performance of acute toxicity range-finding tests	1
Selection of dose levels for teratogenicity test; development of Study Plan; impregnation of test females	1
Total	4

(iii) Reproductive Effects:

Activities:	Time allotted (mos)
Acquisition and acclimation of test animals and test substance, preparation of test protocol and performance of 14-day acute toxicity range-finding tests; preparation of protocol for subchronic range-finding tests	2
Performance of subchronic range-finding tests	1
Performance of pathology analysis of subchronic test animals; development of Study Plan for reproductive effects tests	2
Total	5

(iv) Subchronic/Chronic Effects:

Activities:	Time allotted (mos)
Acquisition and acclimation of test animals and test substance; development of protocol for acute toxicity range-finding tests	2
Performance of acute toxicity range-finding tests; selection of dose levels for subchronic tests; development of Study Plan for subchronic tests	1
Total	3

G. Confidentiality

Section 770.4 of the health standards on chronic effects proposed in the Federal Register of May 9, 1979 (44 FR 27334), would establish general procedures for handling information submitted to EPA in compliance with this subpart. As proposed, when information submitted is covered by a claim of confidentiality asserted in accordance with these rules, EPA will disclose that information publicly only to the extent permitted by the Act, 40 CFR 770.4, and EPA's Public Information rules, 40 CFR Part 2. Under these rules EPA will notify the submitter of confidential information before the Agency makes disclosure. If a person asserts a claim but fails to submit a sanitized copy or the required substantiations, he will be given an opportunity to correct this prblem before EPA releases the information.

EPA will review all confidentiality claims asserted for information included in reports submitted to meet test rule requirements. In accordance with Section 14(b) of the Act, EPA will grant confidentiality for such information only if the Agency determines that release would disclose confidential information concerning the processes used in manufacturing or processing of a chemical substance or mixture, or the confidential proportions of a mixture.

EPA will require submission of a sanitized copy of a health and safety study for which the submitter asserts a claim of confidentiality and substantiation of that claim at the time of submitting the information. The reasons for this policy were discussed in the May 7, 1979 proposal (44 FR 27345).

IV Chloromethane: Basis for Determinations

A. Introduction

The ITC recommended that chloromethane be tested for carcinogenicity, mutagenicity, teratogenicity, and other chronic effects. EPA has decided to propose test rules

for oncogenicity,[1] and structural teratogenicity. In addition, EPA plans to require testing for neurotoxicity (neurologic and behavioral effects), behavioral teratogenicity, and possibly mutagenicity at a future date. Today EPA is seeking comment on certain issues pertaining to those effects and is not proposing testing for those effects because appropriate test standards, or, in the case of mutagenicity, complete test sequences, for such effects have not yet been developed. EPA does not see a need to require testing for systemic effects (acute or chronic toxicity), or metabolism. However, should additional information come to the attention of the Agency about effects for which testing has not been required, EPA will reevaluate its decision and, if necessary, propose testing. The ITC did not recommend an epidemiology study for chloromethane; EPA considered the possibility of requiring an epidemiology study but decided not to do so.

In the remainder of this discussion, EPA summarizes pertinent facts concerning chloromethane, the reasons for EPA's determination regarding each effect, and the basis for EPA's conclusion that the statutory criteria for testing have been satisfied for oncogenicity and structural teratogenicity. Detailed scientific support for these conclusions is contained in the Chloromethane Support Document.

B. Exposure Profile

Chloromethane, CH_3Cl (methyl chloride), is a colorless, noncorrosive gas at room temperature and normal atmospheric pressure. Other physical properties of this chemical include: molecular weight, 50.49; boiling point, −23.7°C; specific gravity, 0.92 at 20°C; solubility in water, 0.74 g/100 ml at 25°C; vapor pressure, 5 atm at 20°C; and an estimated logarithm of the octanol/water partition coefficient (log P_{oct}) of 1.08.

Approximately 300 to 500 million pounds of chloromethane are manufactured annually in the United States. The major process for chloromethane manufacture (accounting for greater than 98 percent of U.S. production of the chemical) is the hydrochlorination of methanol. Direct chlorination of methane is used to produce the remaining 2 percent.

Essentially all chloromethane manufactured in the United States is consumed domestically, primarily as a chemical intermediate in the manufacture of silicones and tetramethyllead. These and other intermediate uses together account for about 96 percent of chloromethane consumption. The major non-intermediate use, as a catalyst-solvent in the manufacture of butyl rubber, accounts for most of the remaining consumption of chloromethane in the U.S.

Because of chloromethane's almost exclusive use in chemical manufacture and processing, the greatest potential for human exposure during its life cycle occurs for workers engaged in the manufacture, processing, and use of the chemical. The 1972–1974 National Occupational Hazard Survey conducted for the National Institute for Occupational Safety and Health estimated that as many as 50,000 workers may be occupationally exposed to chloromethane at the parts per million (ppm) level found in occupational settings. For example, chloromethane exposure has been found at levels of 50 to 75 ppm in the compressor room during its manufacturing and processing. Similar levels have also been found during processing of chloromethane in the manufacture of tetramethyllead, and during the use of chloromethane in the production of polystyrene foam plastics.

The current threshold limit value (TLV) for occupational exposure to chloromethane is 100 ppm. The American Conference of Governmental Industrial Hygienists (ACGIH) has recommended lowering the present TLV to 50 ppm, on the basis of some of the literature discussed in the Chloromethane Support Document. However, certain studies suggest that an even lower level may be needed to protect the health of workers.

The occupational exposure levels are considerably higher than those that appear in non-occupational settings. Thus, while chloromethane is present in the atmosphere in parts per trillion levels from natural sources, and in the parts per billion range in urban atmospheres from manmade sources other than manufacturing, processing and use (e.g., cigarette smoke), it appears at much higher concentrations in occupational settings.

C. Proposed Findings for Oncogenicity and Structural Teratogenicity

1. Potential unreasonable risk finding. EPA believes that exposure to chloromethane may present an unreasonable risk of oncogenic and structural teratogenic effects. This conclusion is based on the evidence presented below and in the support documents (1) that chloromethane has the potential for causing these effects, (2) that a considerable number of workers are exposed to chloromethane during its manufacturing, processing, and use, and (3) that the costs of testing will not have a significant impact on the availability of the benefits of the chemical. The following discussion of each effect focuses, therefore, on the basis for EPA's determination that chloromethane may cause oncogenic, (tumor-causing including cancer) and structural teratogenic (causing birth defects) effects.

2. Oncogenicity. (a) Chloromethane may present an unreasonable risk of injury to health from oncogenic effects.

Several factors suggest that chloromethane has oncogenic potential. Chloromethane is capable of inducing gene mutations in bacteria and causing chromosomal aberrations in plants. It is also a direct alkylating agent for both human and animal tissues. Both mutagenic and alkylating properties are considered to be suggestive of potential oncogenicity. In addition, chloromethane is a member of a class of compounds, the halogenated hydrocarbons, of which several members are known to have oncogenic potential. Furthermore, chloromethane is metabolized to formaldehyde, which preliminary test results indicate is a potential oncogen. Thus, EPA has concluded that chloromethane may present an oncogenic risk to human health.

(b) There are insufficient data upon which the oncogenic effects of chloromethane can reasonably be determined or predicted, and testing is necessary to develop such data.

There is a need to test chloromethane because the data are insufficient to determine whether or not it is an oncogen. As of this date, no long-term oncogenicity study has been completed. Battelle Laboratories, under contract to the Chemical Industry Institute of Toxicology (CIIT), has started a combined oncogenicity/chronic toxicity study; however, EPA believes there are serious defects in the execution of this study that may preclude reliance on negative results as indicative of a lack of oncogenic potential. (See Chloromethane Support Document for details). Thus, EPA is proposing to require that a two-year oncogenicity study be undertaken in accordance with the proposed test standards for oncogenicity to be adopted by EPA (and in accordance with any modifications to the final generic standards contained in the final test rule). Specific modifications to the standard are

[1] As explained in the proposed oncogenicity test standards, EPA is using the term "oncogenicity" instead of "carcinogenicity" 44 FR 27337 (May 9, 1979).

discussed in Section VI. of this preamble.

3. Structural Teratogenicity. (a) Chloromethane may present an unreasonable risk of injury to health from structural teratogenic effects.

There are several reasons to believe that chloromethane may be a structural teratogen. Because chloromethane is a lipid soluble, low molecular weight gas, it is likely to cross the placenta and be available to affect the fetus. There has been one instance of fetal death associated with exposure of a pregnant woman to chloromethane. Thus, EPA believes chloromethane may cause structural teratogenic effects.

(b) There are insufficient data upon which the structural teratogenic effects of chloromethane can reasonably be determined or predicted, and testing is necessary to develop such data.

EPA is unaware of any structural teratogenicity studies that have been done on chloromethane. Consequently, EPA believes that a test rule is necessary in order to assess the risk of teratogenicity posed by chloromethane. EPA is aware that CIIT currently plans to conduct a teratogenicity study. EPA has reviewed CIIT's protocol, and is concerned about the selection procedure for dose levels selected and the species being used. Because of these concerns, EPA is proposing that structural teratogenicity tests be performed in accordance with the proposed test standards with specific modifications discussed in Section VI of this document. It should be noted that in Section X of this preamble the Agency raises for comment the issue as to whether structural teratogenicity and behavioral teratogenicity tests should be combined. EPA will reevaluate the need for a final test rule for structural teratogenicity if the problems with the CIIT proposal are resolved.

D. Decision to Defer Proposal of a Test Rule for Neurotoxicity, Behavioral Teratogenicity, and Mutagenicity

1. Neurotoxicity (neurologic and behavioral effects). Several studies show that workers in the chloromethane industry have exhibited chronic neurologic or behavioral changes from long-term exposure. It has also been found that workers exposed to chloromethane show significant decrements in complex math tasks, increases in resting tremor, and increases in the latency to visual stimuli.

Many problems have been encountered in evaluating the animal studies in the literature. Chloromethane has been tested in several species of animals where the authors concluded that 300 ppm had no apparent effect in 64 weeks of exposure on any species tested, but that 500 ppm produced serious toxicity in most species and pronounced neurologic signs in dogs and monkeys. The evidence indicates that daily exposures to concentrations of 500 ppm can be extremely dangerous even for a period of two weeks or less. More recent animal studies of chronic exposure have produced suggestive evidence of functional and pathologic effects after shorter exposure at considerably lower concentrations. One study reports effects in rats and rabbits at low levels in both acute and chronic exposures. This study reports an increase in the time to acquire a conditioned response in rats after 4 hours of exposure to as little as 114 ppm. Furthermore, after six months of exposure to 20 ppm rats show behavioral deficits. At the lower dose, pathologic changes in rabbits exposed in the same experiment occured throughout the brain as well as in the eye. While these studies suggest that long-term exposure to chloromethane at levels well below 300 ppm may pose an unreasonable neurological risk, they lack certain information necessary for a complete evaluation of the study and are thus insufficient for the purpose of performing adequate risk assessment.

Neurotoxicity test requirements are not being proposed today because EPA is not prepared to specify appropriate test standards to be followed at this time. Instead EPA is soliciting public comments on the Agency's current views with respect to such testing. As EPA's own work progresses and comments are received, EPA intends to prepare a test rule and standard.

The primary neurobehavioral effects of concern that have been identified for testing are chronic effects on the function and morphology of the nervous system. Set forth below are EPA's current views on the most appropriate types of testing and on related issues relevant to the development of suitable test standards.

Based on a recent controlled laboratory study and worker studies, it appears that changes in complex cognitive functions and visual function as measured by behavioral tasks may be the most sensitive human indicators of exposure to chloromethane. Reports on exposed workers, including one follow-up study, suggest that chloromethane exposure may induce damage that involves the cranial nerves or other structures controlling the eye, pyramidal and extrapyramidal (two motor neuron pathways) signs, a reduced tolerance to alcohol, fatigue, and depression. The EPA is considering proposing animal studies to determine appropriate control levels for chronic exposure. The Agency is interested in comments as to the most appropriate testing to require for such effects.

The choice of species for animal testing involves several considerations. First, one study suggests that dogs and monkeys are more sensitive than the other species the investigators tested, and that effects in these species most resemble human effects. The inappropriateness of rats as a test species is suggested in the same study by the failure to observe any overt effects in rats, but not other mammalian species, exposed to 500 ppm. The ocular conjunctivitis observed in one study in rabbits and more recently observed in another study in mice, but not observed in rats, also suggests that rats are less sensitive with respect to ocular irritations as well. However, another study in rats found behavioral effects from both acute and low level chronic exposure. The reports of neither study are adequate to determine why a discrepancy occurs between these studies. The Agency is interested in comments on the most appropriate test species for evaluating the neurobehavioral effects of chloromethane.

The Agency is also considering and requests comments concerning the appropriatenes of and the best means of defining adequate post-exposure testing of subjects from all exposed groups to assess the severity of delayed effects, if any, and the persistence of any observed effects. If exposure in chronic testing is noncontinuous, these effects could be assessed in part during chronic exposure studies prior to the beginning of daily or weekly exposure.

Abuse potential is another potential neurobehavioral effect on which the Agency wishes to receive comment. The abuse potential of a chemical is the likelihood that organisms will self-administer it, i.e., it acts as a reinforcer. The EPA defines abuse potential as including those intrinsic pharmacologic properties that can be measured experimentally and abuse liability to include both abuse potential and other factors that relate to abuse (World Health Organization 1975). Abuse potential depends on a number of factors that may be independent phenomena for a given chemical. A chemical may be called a positive reinforcer if it produces pleasureable consequences that increase the probability of self-administration. Tolerance is a reduced response to a chemical following repeated exposure that can raise the probability of

increased self-administration to continue to produce the same consequences. Dependence is an altered state produced by repeated exposure that can increase the probability of self-administration to avoid or escape unpleasant consequences upon withdrawal.

Chloromethane is a nonspecific central nervous system depressant. Many chemicals in this large and structurally heterogeneous class have abuse potential in humans, including other chlorinated alkanes. In this class, chloroform, chloroethane, and 1,1,1-trichloroethane have been reported to be abused by humans.

Chloromethane has been reported to produce euphoria, as well as unpleasant effects such as headache and depression seveal hours after exposure. One report describes an exposed worker who stated that acute intoxication with chloromethane was considered by some workers to be of little concern because the effects resembled intoxication with ethanol. This is suggestive evidence of positively reinforcing properties. On the basis of these properties and reports, and because abuse potential will increase the risk of all types of toxicity, the EPA is concerned with this potential hazard. The Agency solicits comments on the need and appropriate methods for testing chloromethane for abuse potential.

The Agency is also interested in whether studies relating to interactions which may occur between ethanol and chloromethane should be undertaken. Human case reports of reduced tolerance to ethanol coupled with chloromethane exposure and the fact that both cholоromethane and ethanol have non-specific central nervous system (CNS) depressant action have led the Agency to consider interactions with ethanol as a possible factor of concern in the assessement of the effects of chloromethane. Identifying the nature and extent of an interaction that is additive, potentiating, or inhibiting can be an important element in risk assessment. In addition, dependence on alcohol or chloromethane may modify the probability of self-administration and thus the risks associated with the other agent. The Agency is aware of the existence of a planned behavioral interaction study with ethanol, which addresses such effects in acutely exposed humans, but is not designed to characterize the significance of ethanol-chloromethane interactions in chronic exposure. EPA requests comments on the desirability of including an ethanol interaction component in any chronic neurotoxicity studies which it requires, or in some other fashion testing for this effect. Comment on appropriate methods is also solicited.

Finally, within the workplace, as the mixed acute and chronic exposure case studies reflect, accidental acute high exposures (related to accidents or leaks in the workplace) periodically occur to workers already chronically exposed to lower levels. The Agency is also considering the approriateness and means of assessing such mixed exposure hazards in its proposed neurotoxicity testing, and requests comments on the need for and methods which might be used to test for such effects.

2. Behavioral teratogenicity. Evidence has been developed which suggests that behavioral deficits in developing systems are associated with exposure to non-specific CNS depressant chemicals similar to chloromethane. Because of chloromethane's neurotoxic properties, it may affect the central nervous system which is known to be especially susceptible during early fetal development. A recent study has shown that exposure of rats *in utero* to dichloromethane at a dose which caused no structural defects did cause behavioral defects.

Based on this evidence, the concerns about the neurotoxic properties of chloromethane and the likelihood that it may cross the placenta and affect the fetus, EPA believes cholоromethane may present an unreasonable risk of behavioral effects on the fetus.

There is a need to test chloromethane for behavioral teratogenicity because the existing evidence which indicates that there may be a behavioral teratogenic risk from chloromethane is not sufficient to characterize the extent of that risk. Consequently, EPA believes further testing is necessary for this assessment.

Behavioral teratogenicity test requirements are not being proposed today because EPA is not prepared to specify appropriate test standards to be followed at this time. Instead EPA is soliciting public comments on the Agency's current views with respect to such testing. EPA is aware that the CIIT protocol for teratogenic tests on chloromethane specifies measurement of potential behavioral teratogenic endpoints, and the Agency is considering these in its development of behavioral teratogenic standards.

The EPA believes that such behavioral teratogenicity testing should include a test for evaluation of behavioral and neurological development in the offspring of pregnant animals exposed to chloromethane (see, e.g., Vorhees et al. 1979).[2] In addition to routine signs of physical development that may reflect toxicity, such as body weight, the Agency's current view is that the proposed testing should include specific tests to assess in the offspring effects of chloromethane demonstrated in adults. Acquisition of a conditioned reflex has been reported as a sensitive endpoint. Neurologic impairment of motor function in humans and other mammals also has been reported as well as impairment of visual functions in humans. These three types of endpoints should be considered as wll as thorough neuropathology. The Agency is interested in comments on the suggested behavioral teratogenicity tests.

3. Mutagenicity. There is evidence from bacteria and higher plants that chloromethane is capable of causing both gene mutations and chromosomal aberrations. In bacteria, chloromethane is a direct-acting mutagen capable of inducing base pair substitutions in the DNA of *Salmonella typhimurium* strains TA 1535 and TA 100. In *Tradescentia paludosa* pollen grains, chloromethane is more effective than ethylene oxide in causing chromatid breakage. However, these data are not sufficient to assess the extent of the risk to humans of mutagenicity from chloromethane and additional testing is necessary to develop such data.

EPA believes that mutagenic risk from exposure to chloromethane can most reasonably be determined by performing a sequence of tests for both gene mutation and chromosomal aberration. In such schemes, the performance of certain tests is triggered by positive or negative results from previous tests. However, test requirements for the mutagenicity sequences are not being proposed today because as of this time EPA has been unable to develop specific criteria for sequencing decisions that are suitable for inclusion in Section 4 test standards. EPA believes that such criteria are important to insure consistency between various laboratories in their determinations of whether to stop testing or proceed to the next test in the sequence. In addition, EPA has not yet developed test standards to be followed for the DNA alkylation tests in the gene mutation sequence, which is the uppermost test in the proposed testing sequence for gene mutation.

In the interest of the public health, EPA believes that testing of chloromethane for its mutagenic effects

[2] Vorhees CV, Brunner RL, Butcher RE, Sobolka TJ. 1979. A developmental test battery for behavioral toxicity in rats: a preliminary analysis using MSG, calcium carageenan, and hydroxyurea. Toxicol. and App. Pharmacol. 50:267–282.

should not be delayed due to the Agency's current inability to put in place all elements necessary for the testing sequence. Accordingly, because the intial tests of the mutagencity sequence are short-term tests which are not expensive to perform, EPA plans to arrange for the performance of all tests in the sequences except the final tests: DNA alkylation tests for gene mutation and the heritable translocation assay for chromosomal aberration. Based on its evaluation of the results of these EPA tests, the Agency will decide whether to propose that the final tests of each sequence be performed in accordance with EPA standards which are being or have been developed. EPA is soliciting public comments on the proposed mutagenicity testing sequences descussed below.

• Gene Mutation Testing. EPA believes tests should be performed which demonstrate the potential of chloromethane to induce heritable gene mutations in a higher organism. In addition, the ability of chloromethane to interact with mammalian germinal tissue should be determined. A sequence of tests is set forth which includes: the sex-linked recessive lethal test in *Drosophila melanogaster,* DNA alkylation in mouse and *Drosophila* sperm, gene mutation in mammalian cell culture and DNA alkylation in mammalian cell culture.

EPA regards the production of mutations in a dose response related manner in *Salmonella* to be sufficient evidence for the identification of a chemical as a potential mutagen. Therefore, the Agency believes that testing of chloromethane for gene mutation should begin with the *Drosophila* sex-linked recessive lethal test to confirm the mutagenicity of chloromethane. Because chloromethane has not been tested in mammalian cells in culture, the Agency believes that a negative sex-linked recessive lethal test in *Drosophila* should be followed by a test for mutation in mammalian cells in culture. A finding of gene mutation in one of these tests would be followed by tests for alkylation of mouse sperm DNA, and, as appropriate, alkylation of *Drosophila* sperm DNA or the DNA in mammalian cell culture.

The test sequence for gene mutation is shown in Figure 1. This figure designates the tests which EPA plans to sponsor.

CHLOROMETHANE

Gene Mutation Testing Scheme

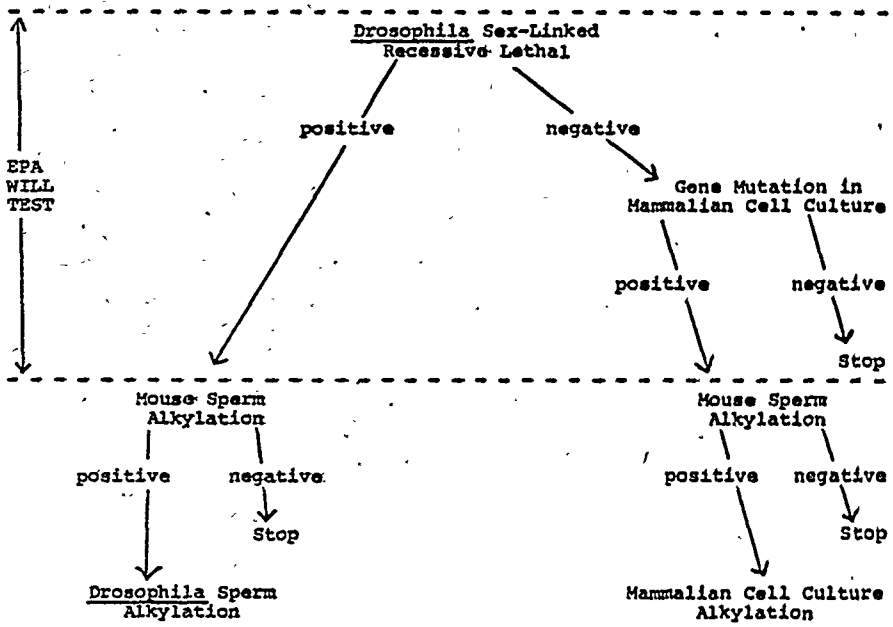

FIGURE 1

• Chromosomal Aberration Testing. EPA also believes that chloromethane should be further tested for its potential for causing chromosomal aberrations. A sequence of tests being considered by the Agency includes the dominant lethal assay and heritable translocation assay. EPA has set forth in the Chloromethane Support Document its reasons for not accepting the conclusions of the dominant lethal assay submitted by the Diamond Shamrock Corporation. EPA plans, therefore, to arrange for performance of another dominant lethal assay on chloromethane. This test is indicative of chromosomal effects in mammalian germ cells. The heritable translocation test demonstrates not only the mutagenic activity of a chemical but also the heritability of such effects. This information can be used in hazard assessment. Therefore, based on the evaluation of the dominant lethal test, the Agency will decide whether to propose a test rule requiring performance of the final test in this sequence, a heritable translocation assay.

The test sequence for chromosomal aberration is shown in Figure 2. This figure designates the tests which EPA plans to sponsor.

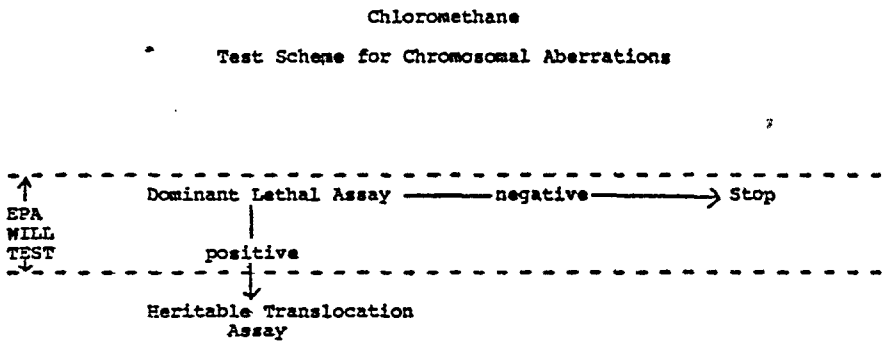

FIGURE 2

E. Decision Not To Require Testing for Systemic Effects, Reproductive Effects, Metabolism, and Epidemiology

1. Systemic effects. (acute and chronic effects)

• Chronic toxicity. Although the Interagency Testing Committee (ITC) recommended testing to determine chronic effects on the liver, kidneys, bone marrow, and cardiovascular system, EPA is not proposing a test rule for these effects. This is because no-effect levels have been determined for liver, kidney, and bone marrow toxicity under a series of test conditions, and because effects on the cardiovascular system do not appear to be associated with nonlethal chronic exposure. Furthermore, the most sensitive indicator of toxicity appears to be the central nervous system for which the Agency expects to propose separate (neurotoxicity) testing. Hence, EPA finds that no further chronic toxicity testing to examine liver, kidney, and bone marrow toxicity is needed at this time.

Acute toxicity. As discussed in section IIIA of the Chloromethane Support Document, EPA believes that available human and animal data are sufficient to evaluate the acute toxicity of chloromethane. Therefore, the EPA is not proposing further testing for acute toxicity at this time.

2. Reproductive effects. EPA has found that there are no data to support a conclusion that chloromethane may present a risk of reproductive effects. Therefore EPA is not proposing testing for such effects at this time.

3. Metabolism. Although the ITC did not recommend metabolism testing, EPA considered the need to require such testing in the course of doing its hazard assessment for the health effects discussed above. EPA concluded that metabolism testing is not necessary at this time.

4. Epidemiology. An animal study and an epidemiologic study indicate that chronic exposure of humans by inhalation of chloromethane at the present TLV (100 ppm) may result in impaired neurological functions. However, EPA believes that these studies are not sufficient to clarify the relationship between chronic exposure to chloromethane at 100 ppm and neurological impairment. While a well-designed epidemiologic study could clarify this relationship, an epidemiologic test requirement is not being proposed today because EPA lacks the specific information necessary to identify a suitable cohort. The identification of a suitable cohort is a complex process requiring specific information. NIOSH has attempted for several years to locate a cohort for an epidemiologic study on chloromethane but thus far has been unsuccessful. EPA will examine the information provided under the rule proposed under Section 8(a) of TSCA to determine whether a suitable cohort can be found. If EPA obtains information identifying a suitable cohort, the Agency will evaluate the need for proposing an epidemiologic study for chloromethane considering in its evaluation any test results obtained from required animal tests. In the case of chloromethane, EPA is soliciting public comment on the feasibility and desirability of an epidemiologic study.

V. Chlorinated Benzenes: Basis for Determinations

A. Introduction

The ITC recommended that the mono-, di-, tri-, tetra-, and penta-chlorinated benzenes be tested for carcinogenicity, mutagenicity, teratogenicity, and other chronic effects, and that epidemiological studies be undertaken. The Committee also recommended that the chlorinated benzenes be tested for environmental effects which, as stated previously, are not addressed in today's notice.

EPA is proposing rules today for oncogenicity, structural teratogenicity, reproductive effects and subchronic/chronic effects testing of some or all of the chlorinated benzenes recommended for testing by the ITC. At a later date, EPA plans to require testing for neurotoxicity (neurologic and behavioral effects), behavioral teratogenicity, metabolism, and possibly mutagenicity. Because appropriate test standards or, in the case of mutagenicity, complete test sequences for such effects have not yet been developed, EPA is not proposing testing now and is instead seeking comment on issues pertaining to those effects. EPA does not see a need to require testing for acute toxicity and has decided that it is not feasible to require epidemiology studies at this time. However, should additional information come to the attention of the Agency about effects for which testing has not been required, EPA will reevaluate its decision and, if necessary, propose testing. The Agency's proposed testing is summarized in Table 2.

Chemical	Oncogenicity	Structural teratogenicity	Reproductive effects	Subchronic/chronic	Neurotoxicity	Behavioral teratogenicity	Mutagenicity	Metabolism	Acute toxicity	Epidemiology
Monochlorobenzene	—	X	X	X	D	D	D	D	—	—
o-Dichlorobenzene	—	X	X	X	D	D	D	D	—	—
p-Dichlorobenzene	—	X	X	X	D	D	D	D	—	—
1,2,4-trichlorobenzene	X	X	—	X	D	D	D	D	—	—
1,2,4,5-tetrachlorobenzene	X	X	X	X	D	D	D	D	—	—
Pentachlorobenzene	X	—	X	X	D	D	D	D	—	—

X = Proposed testing. — = Not proposed. D = Decision to propose testing deferred.

This proposed regulation considers the chlorinated benzenes, also referred to as chlorobenzenes, as a group in accordance with the provisions of Section 26(c) of TSCA. For membership in the category, a substance must be a benzene derivative in which one to five hydrogen atoms are replaced by chlorine. Thus, the category "chlorinated benzenes" includes monochlorobenzene, *p*-dichlorobenzene, 1,2,3-trichlorobenzene, 1,2,4-trichlorobenzenes, 1,3,5-trichlorobenzene, 1,2,3,4-tetrachlorobenzene, 1,2,3,5-tetrachlorobenzene, 1,2,4,5-tetrachlorobenzene and pentachlorobenzene.

It should be noted that while hexachlorobenzene is a member of the chlorinated benzenes family, it was not included in the ITC's recommendations.

The Agency has not considered hexachlorobenzene as part of this rulemaking because it has been evaluated through a separate process within the Office of Pesticides and Toxic Substances (OPTS) and the Agency. After the OPTS review of hexachlorobenzene, it was referred to the Office of Solid Waste for action under the Resource Conservation and Recovery Act for control of the major source of hexachlorobenzene release to the environment. These regulations were published in the Federal Register of May 19, 1980 (45 FR 33066). Therefore, the term "chlorinated benzenes" as used in this rule does not include hexachlorobenzene.

B. Exposure Profile

The commercially most significant chlorinated benzenes include monochlorobenzene (approximately 303 million pounds per year domestic production in 1978), *o*-dichlorobenzene (approximately 55 million pounds in 1978), *p*-dichlorobenzene (approximately 68 million pounds in 1978), 1,2,4- and 1,2,3-trichlorobenzene (approximately 28 million pounds together in 1973), 1,2,4,5-tetrachlorobenzene (approximately 18 million pounds, 1973 consumption estimate), 1,2,3,4-tetrachlorobenzene (approximately 12 million pounds in 1973) and pentachlorobenzene (1–10 million pounds in 1977). *m*-Dichlorobenzene, 1,3,5-trichlorobenzene, and 1,2,3,4,- and 1,2,3,5-tetrachlorobenzenes are currently produced as by-products in the synthesis of other chlorinated benzenes. Trichlorobenzenes are also produced for use as starting material for tetrachlorobenzenes. All of the chlorinated benzenes are on the TSCA inventory.

The liquid chlorobenzenes find widespread use as solvents and synthetic intermediates. Monochlorobenzene is an intermediate in the production of chloronitrobenzene, herbicides, diphenyl oxide, DDT, silicones and other chemicals. *o*-Dichlorobenzene is similarly used as a chemical intermediate and solvent. Some solvent uses of particular concern to EPA are its use for auto engine degreasing and inclusion in formulated products such as toilet bowl and drain cleaners. The major uses of 1,2,4-trichlorobenzene are as a dye carrier, herbicide intermediate, and functional fluid, especially in transformers. (Examples of a functional fluid include heat transfer fluid, dielectric, hydraulic fluid, etc.)

The solid chlorobenzenes find widespread use as synthetic intermediates and pesticides. *p*-Dichlorobenzene is used in the home and in commercial and industrial settings as a space deodorant and also as a moth control agent. 1,2,4,5-Tetrachlorobenzene is used primarily as an intermediate in the production of the fungicide and bactericide 2,4,5-trichlorophenol and the herbicide 2,4,5-T (2,4,5-trichlorophenoxyacetic acid) and as a transformer fluid. Pentachlorobenzene is used as an intermediate in the synthesis of the fungicide, pentachloronitrobenzene and is produced, and disposed of as waste, as a contaminant in other chlorobenzene manufacturing.

The processing and use of chlorinated benzenes as chemical intermediates, process solvents, and solvents in formulated products give rise to potential occupational, consumer, and environmental exposure. Inhalation of chlorinated benzene vapors and exposure to the solid forms of chlorinated benzene dust during manufacturing and processing and use have been shown to occur. The National Occupational Hazard Survey indicates that slightly more than 1 million workers may be exposed to monochlorobenzene, a similar number to *p*-dichlorobenzene, and nearly double that number to *o*-dichlorobenzene although other data indicate the survey overestimated worker exposure.[3] Although this estimate of worker exposure may be high, there is nevertheless sufficient exposure to warrant testing.

The American Conference of Governmental Industrial Hygienists (ACGIH) recommended threshold limit values expressed as time-weighted averages (TWA) or short-term exposure limits (STEL) for the chlorinated benzenes as follows:

monochlorobenzene—75 ppm (350 mg/m^3), TWA
o-dichlorobenzene—50 ppm (300 mg/m^3), TWA
p-dichlorobenzene—75 ppm (450 mg/m^3), TWA
p-dichlorobenzene—110 ppm (475 mg/m^3), STEL
1,2,4-trichlorobenzene—5 ppm (40 mg/m^3), TWA

The Occupational Safety and Health Administration (OSHA) has adopted the TWA standards for monochlorobenzene and *p*-dichlorobenzene. For *o*-dichlorobenzene the OSHA standard is 50 ppm ceiling level (CL). OSHA has no standards for 1,2,4-trichlorobenzene or the other chlorinated benzenes.

Human exposure through the environment may also contribute to unreasonable risk. The information available indicates that many industrial uses and disposal practices may result in ultimate discharge of chlorinated benzenes into the environment rather than their recovery and reuse. It has been estimated that 30 to 50 percent of the monochlorobenzene produced annually is ultimately released into the air. Similarly, the solvent uses of *o*-dichlorobenzene and the deodorant and moth control uses of *p*-dichlorobenzene would be expected to lead to significant environmental release of these two substances. In addition, m-dichlorobenzene has been detected in air samples around disposal sites and industrial facilities. Both 1,2,4- and 1,3,5-trichlorobenzene have been detected in waste-water discharges and in fish. 1,2,3,5- and 1,2,3,4-tetrachlorobenzenes have been detected in freshwater fish in the Great Lakes and nearby rivers leading to concern that the higher chlorinated benzenes may bioaccumulate and present a risk of exposure through the food chain. 1,2,3,5-Tetrachlorobenzene is known to be disposed of as waste during the production of 1,2,4,5-tetrachlorobenzene.

C. Proposed Findings for Oncogenicity, Structural Teratogenicity, Reproductive Effects and Subchronic/Chronic Effects

1. Section 4(a)(1)(A) findings. EPA believes that there are several reasons for considering the chlorinated benzenes as a category for Section 4(a)(1)(A) purposes. The chlorobenzenes comprise a category of closely related chemical compounds that have been shown to cause or would be expected to cause similar biological consequences upon exposure. The chlorobenzene group is formally constructed by substituting one hydrogen of benzene after another with chlorine, in all possible structural arrangements, resulting in corresponding gradual changes in properties across the series. Proceeding from less chlorinated to more highly chlorinated benzenes, regular changes can be observed in characteristics or numerical values over a broad range of categories: chemical and physcial properties, method of manufacture, use patterns, nature of impurities, and biological and enviromental behavior.

Some irregularities do occur within the group that result from different steric and electronic effects among isomers of the same degree of substitution, but these are not significant enough to

[3] Additional figures showing much less employee exposure to the chlorinated benzenes were submitted to the Agency on February 25, 1980, by the Synthetic Organic Chemical Manufacturers Association (SOCMA); however, several aspects of the SOCMA report indicate that its exposed worker estimates may underestimate exposure. No citations were included from which the data can be verified. (See the Chlorinated Benzenes Support Document for more details)

negate the overall consistency of the group's behavior. In general, the chlorinated benzenes have low water solubility and this solubility decreases as the number of chlorines increases. The group exhibits moderate to high octanol/water partition coefficients, which increase as the degree of chlorination increases. This is significant because a high octanol/water partition coefficient is an indicator of a chemical's potential to accumulate in fatty tissues, however, it appears that all chlorinated benzenes are metabolized via expoxidation, dechlorination and/or oxidation by nonepoxide mechanisms, with various chlorophenols among the major products. In some cases different chlorobenzenes are metabolized to a common chlorophenol. The electron-withdrawing character of the chlorine atom relative to carbon renders monochlorobenzene less reactive than benzene toward electrophilic attack (e.g., nitration, chlorination), with each additional chlorine substituent somewhat lowering the reactivity of the compound. Some variations do occur within the group that are due to different steric and electronic effects among isomers of the same degree of substitution; nevertheless, the overall trends in physicochemical properties are consistent.

The available information on metabolism and toxicity suggests that these shared physical and biochemical characteristics are responsible for causing similar adverse health effects. For example, in animal studies, all of the chlorobenzenes tested have effects on the liver, several have effects on the kidneys, and all those tested lead to changes in the hematopoietic system. Further the data that are available on the metabolism of chlorobenzenes to support the conclusion that most if not all of the compounds undergo epoxidation, dechlorination, and/or oxidation by non-epoxide mechanisms, with various chlorophenols among the major products. In some cases, different chlorobenzenes are metabolized to a common chlorophenol.

This is not to imply that all category members will necessarily have identical effects or similar potencies for a given effect, but the Agency believes that scientific principles and available data and experience lead to a reasonable presumption that the biological behavior of these 11 chemicals will present a coherent picture of toxicity.

In addition to exhibiting a common, potential hazard, all the chlorinated benzenes raise exposure concerns. As discussed in the previous section, many of the chlorinated benzenes are produced in quantities ranging in millions of pounds a year. Others commonly appear as by-products of other chlorinated benzenes. The broad variety of uses potentially leads to occupational, consumer, and environmental exposure to the entire category. Further, there may also be exposure to several chlorinated benzenes simultaneously since the commercial methods for producing and handling the chemicals ensures that most commercial chlorobenzenes will contain other chlorobenzenes as impurities or by-products and that chlorobenzene production wastes will also contain various chlorobenzenes. Further, the estimation of relative environmental levels of the various chlorobenzenes is complicated by the possibility that some interconversion of isomers might occur in the environment. (This could be the result either of conversion to more highly chlorinated compounds during water treatment by chlorination or of reductive dechlorination by photodegradative mechanisms or by microorganisms to form the less-chloroinated derivatives. There is little information on this point, although interconversions by declorination apparently do occur to some extent during the mammalian metabolism of some chlorinated benzenes [Section III. B.1.c.(1) of the Support Document]). Thus, for all of the above reasons, EPA concludes that the chlorinated benzenes may present an unreasonable risk of injury to health.

EPA is also making the Section 4(a)(1)(A) (ii) and (iii) findings for the category of chlorinated benzenes. EPA finds that data and experience are insufficient to characterize the chlorinated benzenes and that additional testing is necessary to permit their characterization. EPA recognizes that 1,2,4-trichlorobenzene has been adequately tested for subchronic effects and pentachlorobenzene, for teratogenicity, and that monochlorobenzene, *o*-dichlorobenzene and *p*-dichlorobenzene are being tested for oncogenicity. However, these data will not be sufficient to characterize all chlorobenzenes. Rather than requiring testing of all chlorinated benzenes for effects for which there are insufficient data, EPA believes that scientific principles and available data and experience lead to a reasonable presumption that the biological behavior of the 11 chlorinated benzenes will present a coherent picture of toxicity and that biological data on a well-chosen sample of category members can be used to characterize the behavior of untested members. However, as explained elsewhere in this preamble, manufacturers and processors of all chlorinated benzenes are subject to the rule and responsible for testing or sharing the costs of testing. Whether the costs of testing should be borne more by manufacturers and processors of one chlorobenzene than another to ensure financial equity shall be addressed in the reimbursement rule rather than proposed here, although comment on this issue would be appreciated.

In the remainder of this discussion, EPA summarizes pertinent facts concerning the chlorobenzenes, and gives the specific basis for EPA's conclusion that the statutory criteria for testing have been satisfied for oncogenicity, structural teratogenicity, reproductive effects and subchronic/chronic effects. Detailed scientific support for EPA's conclusions are contained in the Chlorinated Benzenes Support Document.

2. Oncogenicity. (a) The chlorinated benzenes may present an unreasonable risk of injury to health from oncogenic effects.

Several factors suggest that the chlorinated benzenes have oncogenic potential. Exposure to chlorinated benzenes has been associated with leukemia in humans in several cases. They are structurally similar to a known leukemogen and oncogen, benzene, and a known oncogen, hexachlorobenzene. Chlorinated benzenes are thought to be metabolized to arene oxides, a class of compounds with oncogenic potential. In addition, they have been shown to produce positive results in mutagenicity tests which are suggestive of oncogenicity. Lastly, hexachlorobenzene and chlorinated benzene metabolites have been shown to have tumor-promoting potential. Thus, EPA has concluded that the chlorinated benzenes may present on oncogenic risk to human health.

(b) There are insufficient data upon which the oncogenic effects of the chlorinated benzenes can reasonably be determined or predicted, and testing is necessary to develop such data.

Although few animal models have been developed which are capable of detecting chemically induced leukemia, long-term testing for oncogenic effects from exposure to chlorinated benzenes is necessary to adequately characterize the risk of other oncogenic effects (i.e. tumors). The potential of the chlorinated benzenes to produce tumors has been demonstrated by the results of mutagenicity and tumor promoting tests.

There is a need to test the chlorinated benzenes because data are insufficient to determine whether or not they are oncogenic. As of this date, no long term

oncogenicity study has been completed. However, the National Cancer Institute (NCI) is currently testing monochlorobenzene and *o*-dichlorobenzene in long-term bioassays. *p*-Dichlorobenzene is scheduled to be placed on test beginning in June 1980. Therefore, EPA is not proposing that monochlorobenzene, *o*-dichlorobenzene, or *p*-dichlorobenzene be tested for oncogenicity. While the NCI protocol differs from the oncogenicity testing standards proposed by EPA, the Agency is tentatively accepting these differences in testing approaches. When the results of the NCI tests become available, the Agency will include them in its continuing evaluation of these chemicals. These results will be made available in the public record when the test data are received by the Agency. Oncogenicity data on these three chlorobenzenes alone are not sufficient to characterize the chlorinated benzenes category for the potential to cause oncogenic effects because testing the lower chlorinated benzenes does not span the structural spectrum of the category. Thus, EPA has concluded that it is necessary to require that two-year oncogenicity studies be undertaken on additional chlorinated benzenes in accordance with the proposed test standards for oncogenicity adopted by EPA (and any modifications to the final generic standards in the final test rule). See Section VI.B.2. of this preamble for a discussion of the test substances proposed by EPA for testing.

3. Structural Teratogenicity. (a) The chlorinated benzenes may present an unreasonable risk of injury to health from structural teratogenic effects.

Several factors indicate that the chlorinated benzenes may have structural teratogenic potential. They are related structurally to hexachlorobenzene which is teratogenic in mice and causes rib abnormalities in rats. Pentachlorobenzene causes dose related rib abnormalities in rats as seen with hexachlorobenzene. In addition, certain phenolic metabolites of the chlorinated benzenes are also known to cause embryo—and fetotoxic responses in the rat. The structurally-related hexachlorobenzene has been demonstrated to pass the placenta. Also, chlorobenzenes are nonspecific central nervous system (CNS) depressants in adults and, as such, cross the blood-brain barrier. In addition, the relatively low molecular weights and the lipid solubility of the chlorobenzenes indicate potential for rapid diffusion across the placenta. Thus, chlorinated benzenes and some of their toxic metabolites can be reasonably assumed to cross the placenta and pose a risk to the developing embryo or fetus. For the reasons stated above, EPA believes that the chlorinated benzenes may pose a structural teratogenic risk.

(b) There are insufficient data upon which the structural teratogenic effects of the chlorinated benzenes can reasonably be determined or predicted, and testing is necessary to develop such data.

As of this date, the chlorinated benzenes have not been tested for their potential to cause structural teratogenicity, except for pentachlorobenzene. Consequently, EPA believes a test rule is necessary to assess the structural teratogenic potential of the chlorinated benzenes. EPA is proposing that structural teratogenicity tests be performed, except for pentachlorobenzene, in accordance with the proposed test standards. it should be noted that in Section X the Agency raises for comment the issue as to whether structural teratogenicity and behavioral teratogenicity tests should be combined. The EPA Health Effects Research Lab at Research Triangle Park, N.C. (RTP), has performed a teratogenicity screen on 1,2,4-trichlorobenzene for the Office of Drinking Water. However, this screen is currently undergoing the process of validation. If the screen is validated for assessing teratogenic effects, EPA will evaluate the data and determine whether any changes in the teratogenicity testing requirements are necessary. This study will be available in the public record. Also, the National Toxicology Program (NTP) has tentatively selected 1,4-dichlorobenzene for teratogenicity testing. In addition, the chlorobenzene producers, including Dow Chemical Co., are reportedly planning a jointly sponsored teratology study on monochlorobenzene, *o*-dichlorobenzene, and *p*-dichlorobenzene. These factors will be taken into consideration in adopting a final test rule for the chlorinated benzenes.

4. *Reproductive Effects* (a) The chlorinated benzenes may present an unreasonable risk of injury to health from reproductive effects.

Several factors indicate that the chlorinated benzenes may cause reproductive effects in humans. It has been shown that monochlorobenzene affects the ovarian weight of rats and that hexachlorobenzene affects the fertility of rats. Dose-related ovarian effects noted in monkeys exposed to hexachlorobenzene also cause concern about other chlorinated benzenes. In addition, testicular effects have been noted in a subchronic study on dogs exposed to monochlorobenzene. Hexachlorobenzene has been demonstrated to pass the placenta, accumulate in human body fat and appear in the mothers milk. Because hexachlorobenzene is structurally similar to chlorobenzenes, it is reasonable to believe that this can occur with the other chlorinated benezenes as well. Thus, EPA believes that the chlorinated benzenes have the potential to cause reproductive effects.

(b) There are insufficient data upon which the reproductive effects of the chlorinated benzenes can reasonably be determined or predicted, and testing is necessary to develop such data.

A reproductive study on 1,2,4-trichlorobenzene has been performed by EPA's Health Effects Research Lab at Research Triangle Park (RTP), North Carolina, for the EPA Office of Drinking Water. Thus, further testing of this compound appears to be unnecessary unless evaluation of the final results of these tests indicates further testing should be done. When the final report of the RTP study has been completed, it will be made available in the public record. Existing data are insufficient to determine the effects on fertility and the offspring due to exposure to the other chlorinated benzenes. Reproductive testing is necessary to develop data which will characterize the ability of the chlorinated benzenes to cause reproductive effects. EPA is proposing that reproductive effects testing be performed in accordance with the proposed test standards.

5. Subchronic/chronic effects. (a) The chlorinated benzenes may present an unreasonable risk of injury to health from subchronic/chronic effects.

The available data indicate that all of the chlorinated benzenes are associated with damage to the liver and hematopoietic (blood forming) system. Kidney damage has been produced by at least the first three groups of chlorobenzenes (mono- through tri-).

Structurally, the chlorinated benzenes are related to benzene on one end of the spectrum and hexachlorobenzene on the other end of the spectrum. Both of these chemicals are recognized for their chronic toxic effects in humans. Experimental evidence shows that members of the group of chemicals structurally in between these two compounds are capable of producing similar health effects. In addition, other halogenated hydrocarbons are known to bioaccumulate. Similarly, several of the chlorinated benzenes have been reported as having the capacity to bioaccumulate.

In addition to evidence from animal studies and structural relationships,

human case reports have indicated that these chemicals induce severe health effects especially in the liver and hematopoietic system. Although anecdotal human case reports are not considered by EPA to be definitive evidence that these chemicals cause serious health effects, the information contributes to a total picture of their chronic health effects. Because of the above evidence, EPA believes that the chlorinated benzenes have the potential to cause subchronic/chronic effects.

(b) There are insufficient data upon which the subchronic/chronic effects of the chlorinated benzenes can reasonably be determined or predicted, and testing is necessary to develop such data.

While the available data clearly demonstrate that chronic effects occur from exposure to chlorinated benzenes, the data are not adequate to determine what level of control of exposure would eliminate the unreasonable risk of various chronic effects. A study adequate to characterize the subchronic toxicity of pentachlorobenzene has recently been completed by EPA. EPA is aware that Imperial Chemical Industries in Great Britain is carrying out a long-term inhalation study in rats on *p*-dichlorobenzene. EPA is also currently trying to obtain details on an inhalation study performed by a different group on rats exposed to 1,2,4-trichlorobenzene. If the results of these two studies become available to the Agency, EPA will evaluate them and decide whether subchronic testing of these two chlorinated benzenes is necessary. Based upon current information, however, EPA believes that with the exception of pentachlorobenzene testing is necessary to further define the risk of chronic effects posed by the chlorinated benzenes. EPA is proposing that 90 day subchronic tests be performed in accordance with the proposed test standards except that the rat should be the only species tested. The Chlorinated Benzenes Support Document contains a discussion as to the Agency's view on the sufficiency of a 90-day subchronic test for determining the potential of the chlorinated benzenes for causing chronic effects.

D. Decision To Defer Proposal of a Test Rule for Neurotoxicity, Behavioral Teratogenicity, Mutagenicity, and Metabolism

1. Neurotoxicity (neurologic and behavioral effects). Signs and symptoms of adverse effects on the nervous system have been associated with exposure to four of the chlorobenzenes (monochlorobenzene, *o*-dichlorobenzene, *p*-dichlorobenzene, and 1,2,4,5-tetrachlorobenzene) in various species, including humans, rats, rabbits and guinea pigs. In humans exposed to monochlorobenzene, headache, dizziness, somnolence, loss of consciousness, acroparasthesia (numbness and tingling of extremities), hyperesthesia (extreme sensitivity) of the hands, spastic contractions of the fingers or the gastrocnemius muscle, twitching muscles of the head and neck, and dyspeptic (stomach) disorders have been reported. Humans exposed to *p*-dichlorobenzene, possibly contaminated with small amounts of *o*-dichlorobenzene, exhibited intensified muscular reflexes, ankle clonus (contraction of ankle muscular tissue), and loss of appetite.

Animals exposed to monochlorobenzene have shown non-specific CNS depression, chronaxie disturbances (disturbances in excitability of nervous or muscular tissue), and an elevation of blood cholinesterase. *o*Dichlorobenzene also produces signs of CNS depression. Animals exposed to *p*-dichlorobenzene develop nystagmus (rhythmic eye movements), tremors, twitches, loss of the righting reflex, rapid labored respiration, and transitory edema of the head of the optic nerve. Repeated exposure to high doses of *p*-dichlorobenzene produces weakness, tremors, weight loss, and death. Exposure to 1,2,4,5-tetrachlorobenzene causes deficits in the speed and accuracy of a conditioned reflex.

Additional data are needed for a more complete characterization and assessment of the neurotoxic hazard from exposure to the chlorinated benezenes. For the chlorobenzene compounds that have been tested for neurologic and behavioral effects, the dose-response characterization is incomplete, and available observational data are poorly quantified, subjective, and therefore, relatively insensitive. Subchronic studies of electrophysiological functions are inadequately detailed.

Neurotoxicity test requirements are not being proposed today because EPA is not prepared to specify test standards to be followed at this time. Instead, EPA is soliciting public comment on the Agency's current views with respect to such testing. EPA intends to propose such testing when appropriate EPA test standards for neurotoxicity are developed.

The following discussion sets forth the Agency's current views on testing for neurologic and behavioral effects. EPA's views on the route of administration of the various chlorobenzenes are discussed in the Support Document. EPA believes that both acute and subchronic (repeated exposure for 90 days or longer) tests on rodents should be performed using locomotor activity, a functional observational battery, and a neurophysiological test of chronaxie (relationship between a stimulus intensity and latency of response of the excitable tissue) and conduction velocity as dependent measures. Histopathology of the nervous system of subchronically exposed animals is also recommended. the examination should include: longitudinal and cross sections of the spinal cord, i.e., thoracic and lumbar regions; cross sections of the forebrain, midbrain, and brainstem; and representative sections of the sciatic nerve. Tissue should be fixed *in situ* with formaldehyde or glutaraldehyde and paraformaldehyde.

Tests of locomotor activity have been widely used in screening drugs and have been proposed as screening tests for environmental chemicals. A recent survey by Reiter and MacPhail [4] of locomotor activity measures discusses some of the problems involved in generating comparable data from different types of measurement devices as well as the influence of other important variables. In general, when combined with observational measurements of other central nervous system (CNS) functions automated activity devices provide more reliable and better quantified measures of locomotor activity.

Observational assessment by means of screening tests that measure objective physiological signs, unconditioned reflexes, elicited responses, and operants are essential for detecting the spectrum of a chemical's effects and providing a basis for determining its functional anatomical targets. Tilson and Cabe [5] and Tilson, Mitchell, and Cabe [6] present useful examples of a screening battery and a discussion of some factors important to development of screening batteries.

Among the neurobehavioral functions assessed by means other than observation which are reported in the available literature on chlorinated benzenes are acquisition of conditioned responses, chronaxie measurements of nerves or muscles, and electroencephalography. EPA is

[4] Reiter LW, McPhail RC. 1979. Motor activity: a survey of methods with potential use in toxicity testing. Neurobehavioral Tox. 1, Suppl. 1:53–66.

[5] Tilson HA, Cabe PA. 1978. Strategy for assessment of neurobehavioral consequences of environmental factors. Environ. Health Perspect. 26:287–299.

[6] Tilson HA, Mitchell CL, Cabe PA. 1979. Screening for neurobehavioral toxicity: the need for examples of validation of testing procedures. Neurobehavioral Toxicology 1 (suppl. 1):137–146.

considering proposing that subchronic studies of the effects of chlorobenzenes measure chronaxie and some other neural function. Among such functional tests, conduction velocity of a mixed large and small diameter fiber population is a well-known parameter for evaluating nerve damage (See Glatt et al.[7]). However, other tests such as frequent impulse series transmission (e.g., Tackmann et al.[8]) or other electrodiagnostic procedures should be considered. The Agency is interested in comments on the suggested neurotoxicity tests.

2. *Behavioral Teratogenicity.* Acute and repeated exposure to all of the tested chlorinated benzenes (in animals: monochlorobenzene, *ortho-* and *para-*dichloro- and 1, 2, 4, 5-tetrachlorobenzene; in humans: monochlorobenzene and *para-*dichlorobenzene) have been associated with adverse central nervous system (CNS) effects. Because chlorobenzenes are non-specific CNS depressants in adults and, as such, cross the blood-brain barrier, it can be reasonably assumed that the chlorinated benzenes or their toxic metabolites can cross the placental barrier. The CNS appears to be especially susceptible to toxic insult during its development. In addition, other non-specific CNS depressants have been shown to be associated with behavioral deficits in developing organisms. Thus, the possibility for fetal exposure to chlorinated benzenes combined with their neurotoxic potential warrants their evaluation as behavioral teratogens. On these bases, EPA concludes that chlorinated benzenes may present a potential risk of behavioral teratogenic effects. Moreover, in agreement with the concept that behavioral and anatomical evaluations are complementary approaches to central nervous system toxicity, the Agency is considering requiring behavioral teratogenicity testing.

Behavioral teratogenicity test requirements are not being proposed today because EPA is not prepared to specify appropriate test standards to be followed at this time. Instead EPA is soliciting public comment on the Agency's current views with respect to such testing. EPA intends to propose such testing when an EPA test standard for behavioral teratogenicity is developed.

The EPA believes that such behavioral teratogenicity testing should include a test for evaluation of the neurofunctional deficits and behavioral and neurological development in offspring of pregnant animals exposed to chlorobenzenes (see, e.g., Vorhees et al.[9]). In addition to routine signs of physical development that may reflect toxicity, such as body weight, the proposed testing should include specific tests to assess in offspring known effects of chlorinated benzenes in adults. As non-specific CNS depressants, the chlorinated benzenes cause narcosis, reflex changes, and other neurological motor signs, as well as changes in food intake and body weight. Screening batteries specifically designed for examining these behaviors in developing organisms should include measures shown to be related to intoxication. Neuropathology should also be included. EPA's views on the route of administration for the various chlorobenzenes are discussed in the Chlorinated Benzenes Support Document. The Agency is interested in comments on the suggested behavioral teratogenicity tests.

3. *Mutagenicity.* EPA has determined that the chlorinated benzenes may pose a hazard to human health from mutagenic effects. Certain of the chlorinated benzenes have been reported to possess mutagenic activity in bacterial or eukaryotic systems that detect gene mutations, to cause reciprocal chromosomal recombination in yeast, to cause differential cell kill in DNA repair deficient strains of bacteria; and to induce C-mitosis and chromosomal breaks in plant systems. Thus it is evident that the chlorinated benzenes possess the potential to induce mutation, to interact with the chromosomal material, to cause recombination between homologous chromosomes, and to cause C-mitosis and chromosomal aberrations in plants. In addition, certain chlorinated benzenes interact with bacterial DNA to produce DNA damage as evidenced by differential cell kill. Given the weight of the evidence, EPA considers that these agents may pose a potential mutagenic risk to the human population. However, these data are not sufficient to assess the extent of the risk of mutagenicity from the chlorinated benzenes and additional testing is necessary to develop such data.

EPA believes that mutagenic risk from exposure to the chlorinated benzenes can most reasonably be determined by performing a sequence of tests for both gene mutation and chromosomal aberration. In such schemes, the performance of certain tests is triggered by positive or negative results from previous tests. However, test requirements for the mutagenicity sequences are not being proposed today because, as of this time, EPA has been unable to develop specific criteria for test sequencing decisions that are suitable for inclusion in Section 4 test standards. EPA believes that such criteria are important to insure consistency between various laboratories in their determinations of whether to stop testing or proceed to the next test in the sequence. In addition, EPA has not yet developed test standards to be followed for the DNA alkylation tests in the gene mutation sequence or the *in vitro* cytogenetics test for chromosomal abberration.

In the interest of the public health, EPA believes that testing of chlorinated benzenes for their mutagenic effects should not be delayed due to its current inability to put in place all elements necessary for the testing sequence. Accordingly, due to the current absence of explicit criteria for the sequences, and because the initial tests of the mutagenicity sequences are short term tests which are not expensive to perform, EPA plans to arrange for the performance of all tests in the sequences except the final tests: DNA alkylation tests for gene mutation and the heritable translocation assay for chromosomal aberration. Based on its evaluation of the results of these EPA tests, the Agency will decide whether to propose that the final tests of each sequence be performed in accordance with EPA standards which are being or have been developed. EPA is soliciting public comment on the proposed mutagenicity testing sequences discussed below.

Test sequences are set forth for both gene mutation and chromosomal aberration tests because effects on either genes or chromosomes may give rise to heritable mutations. The following tests will generate information necessary to determine if chlorinated benzenes are potential human mutagens and perform a mutagenicity hazard assessment.

—Gene Mutation Testing. EPA believes tests should be performed which demonstrate the potential of the chlorinated benzenes to induce heritable gene mutations in a higher organism. In addition, the ability of the chlorinated benzenes to interact with mammalian germinal tissue should be determined.

The test battery planned for assessing gene mutation from exposure to the

[7] Glatt AF, Talaat HN, Koella WP. 1979. Testing of peripheral nerve function in chronic experiments in rats. Pharmac. Ther: 539–543.

[8] Tackmann W, Ullerich D, Lehmann HJ. 1974. Transmission of frequent impulse series in sensory nerves of patients with alcoholic polyneuropathy. Europ. Neurol. 12:317–330.

[9] Vorhees CV, Brunner RL, Butcher RE, Sobolka TJ. 1979. A developmental test battery for behavioral toxicity in rats: a preliminary analysis using MSG, calcium carageenan, and hydroxurea. Toxicol. and App. Pharmacol. 50:267–282.

chlorobenzenes consists of the reverse mutation in *Aspergillus nidulans*, the sex-linked recessive lethal test in *Drosophila melanogaster*, DNA alkylation in mouse and *Drosophila* sperm, gene mutation in mammalian cell culture, DNA alkylation in mammalian cell culture, and tests for DNA damage and repair. EPA believes it is appropriate to use *Aspergillus* rather than *Salmonella typhimurium* in the initial mutagenicity tests based upon the test results of the chlorinated benzenes in several microbial systems. These results have shown that reverse mutations are not produced in *Salmonella* strains TA–1535, 1537, 1538, and 98 and 100 with or without metabolic activation.[10] Testing in E coli WP–2 also showed that the chlorinated benzenes were non-mutagenic with and without metabolic activation. In contrast to the above results, monochlorobenzene produced point mutations in *Streptomyces antibioticus* and the dichlorobenzenes produced point mutations in *Aspergillus*. Consequently, the most appropriate mutagenicity test method, in the Agency's view, to assess the potential of additional chlorinated benzenes to be mutagenic is one of the latter. Inasmuch as monochlorobenzene, *o, m-*, and *p*-dichlorobenzene were investigated in *Aspergillus* whereas only monochlorobenzene was tested in *S. antibioticus, Aspergillus* would be the species of choice. It should be noted that not all six compounds are proposed to be tested on the entire test battery. This is because some compounds have been adequately characterized in some tests and can be started further along in the sequence. Thus, testing of monochlorobenzene, *o-*, and *p*-dichlorobenzene begins with the sex-linked recessive lethal test in *Drosophila* because these agents have already been adequately tested in assay systems for the induction of point mutations in bacteria and fungi. EPA does not believe that monochlorobenzene should be tested in mammalian cells in culture because this agent has been adequately tested in mammaliam cell culture and found to be inactive in this system. Tests for mutation in mammalian cells in culture have not been performed with *o-*, and *p*-dichlorobenzene or tri-, tetra- or pentachlorobenzenes. For this reason EPA believes that these substances should be tested in this system.

[10] All 11 chlorinated benzenes have been proposed for testing in the *Salmonella* test system by the National Toxicology Program (NTP). EPA will coordinate its sequenced testing with the mutagenicity testing undertaken by NTP.

EPA does not consider that tri-, tetra- and pentachlorobenzene have been adequately tested for the ability to induce point mutations. The only results of which the Agency is aware at this time show trichlorobenzene to be inactive in *Salmonella*. The Agency believes that testing of these agents should begin with a test for reverse mutations in *Aspergillus* and follow the full testing sequence. The scheme includes testing for DNA damage and repair if both *Aspergillus* and gene mutation in mammalian cell culture are negative.

The test sequences for gene mutation are shown in Figures 3–6. The figures designate the tests which EPA plans to perform.

—Chromosomal Aberration Testing. EPA believes that the chlorinated benzenes should be further tested for their ability to produce chromosomal aberrations. The tests to be performed on chlorinated benzenes include: *in vitro* cytogenetics, *in vivo* cytogenetics, dominant lethal assay, and the heritable translocation assay.

Chromosomal aberrations may be detected in a variety of animal and plant systems employing both *in vitro* cell culture and whole animal techniques. Because EPA is unaware of tests for chromosomal aberrations having been performed in mammalian systems, the Agency believes that the chlorinated benzenes should be tested for chromosomal aberrations beginning with a test for chromosomal aberrations in mammalian cells in culture. Because it is possible that some agents which are not detected in *in vitro* systems may be detected in whole animal systems, the Agency believes that a negative *in vitro* cytogenetics assay should be followed by a test for chromosomal aberrations *in vivo*. No further testing for chromosomal aberrations will be performed if both the *in vitro* and *in vivo* cytogenetics tests are negative. A positive cytogenetics assay will be followed by a dominant lethal test to demonstrate the effect of the chlorinated benzenes on germinal cell chromosomes. It has been shown that the incidence of chromosome breaks at first cleavage of the fertilized egg is proportional to the number of dominant lethals which occur after treatment and mating. No further testing for chromosomal aberrations will be performed if the dominant lethal test is negative. The heritable translocation test can be used to show the ability of a chemical to induce heritable chromosomal aberrations. Thus, this test can be used not only to detect potential mutagens but also for purposes of assessing risk. Based on its evaluation of the results of the dominant lethal assay the Agency will decide whether to propose a test rule requiring performance of the final test in the sequence, heritable translocation test, the results of which can be used for hazard assessment.

The test sequence for chromosomal aberrations is the same for all of the chlorinated benzenes and is shown in Figure 7. The figure designates which tests EPA plans to sponsor.

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MONOCHLOROBENZENE

Gene Mutation Testing Scheme

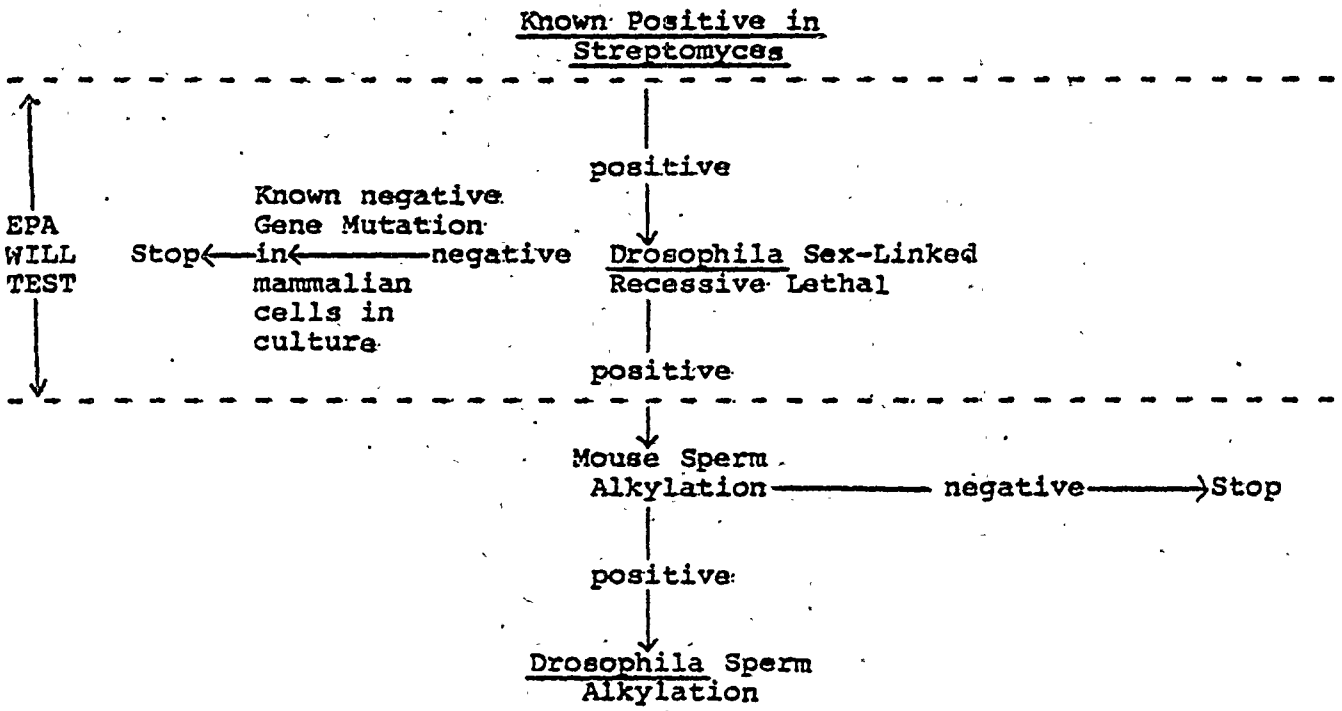

FIGURE 3

o- and p-DICHLOROBENZENE

Gene Mutation Testing Scheme

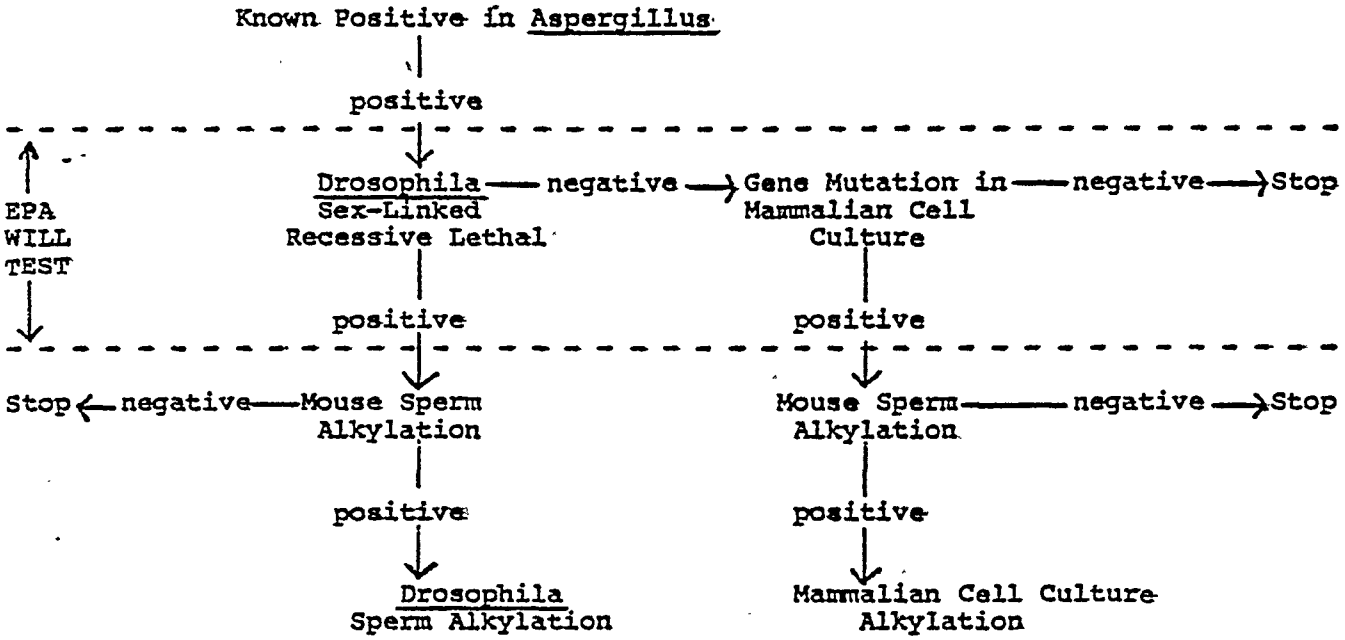

FIGURE 4

TRICHLOROBENZENE AND HIGHER

Gene Mutation Testing Scheme I

(Positive Aspergillus Assay)

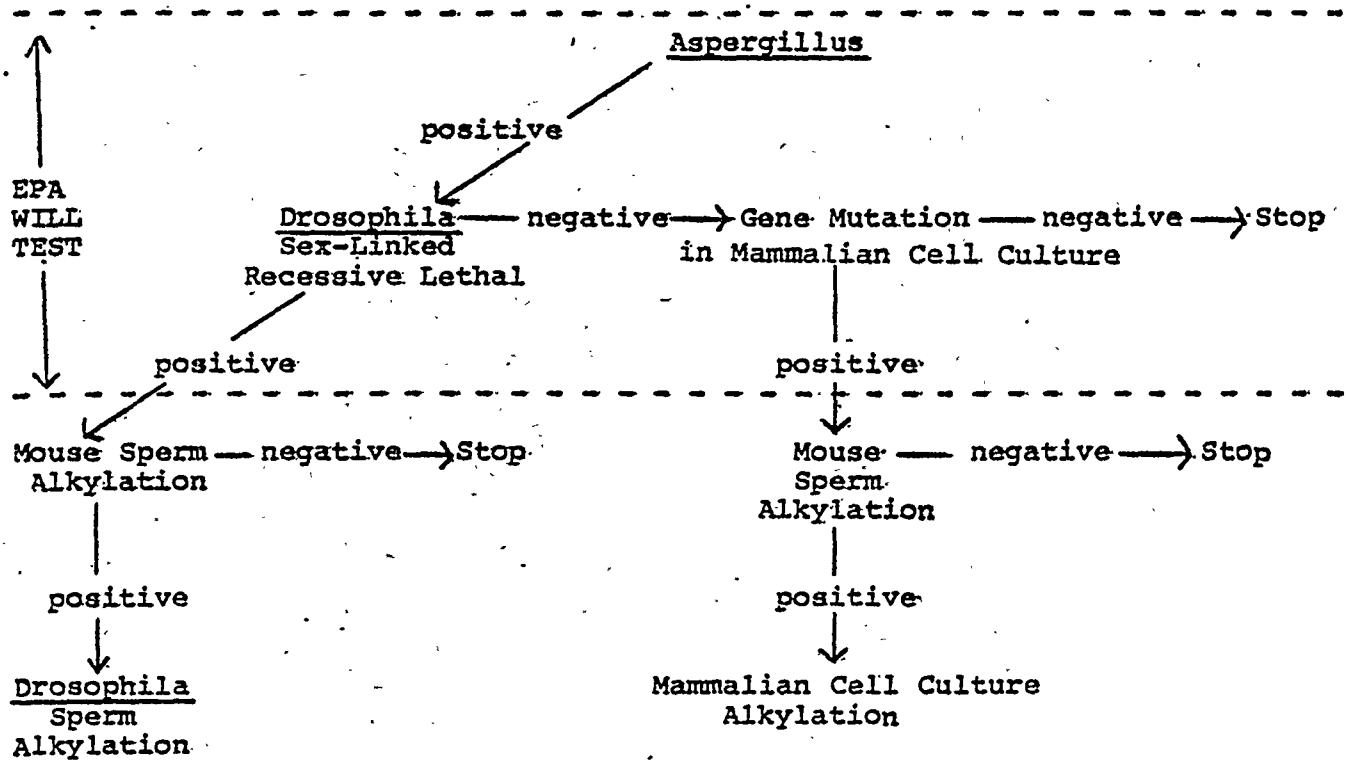

FIGURE 5

TRICHLOROBENZENE AND HIGHER

Gene Mutation Testing Scheme II

(Negative Aspergillus Assay)

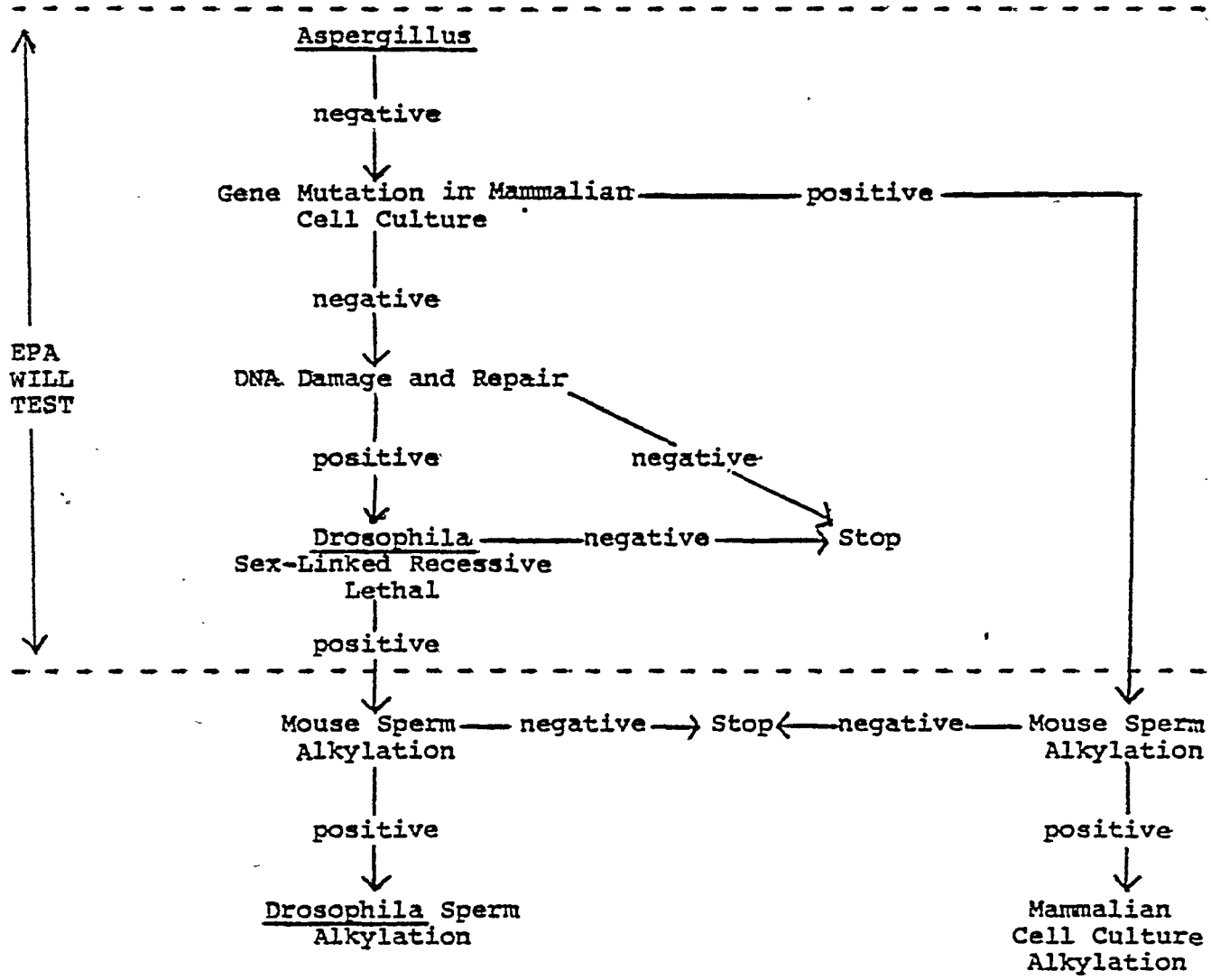

FIGURE 6

CHLORINATED BENZENES

Test Scheme For Chromosomal Aberrations

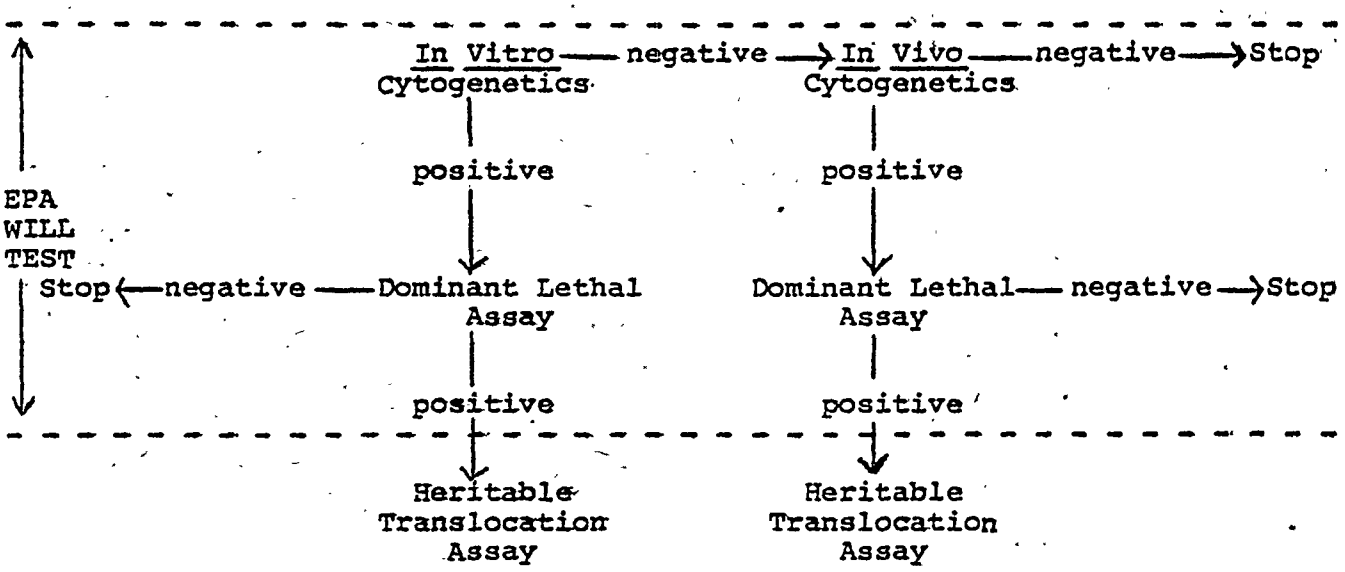

FIGURE 7

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4. *Metabolism.* The metabolism studies discussed in the Chlorinated Benzenes Support Document deal primarily with the products of chlorinated benzene metabolism and provide little information on the pharmacokinetic aspects. The studies lead to the conclusion that the chlorinated benzenes are metabolized at least in part to expoxide (arene oxide) intermediates. Such intermediates may have the ability to react with biological macromolecules, with potentially harmful effects on the target organism. However, more information is desirable on the rates of formation and the reactivity of the intermediate epoxides derived from different chlorobenzenes, as well as on the ability of chlorobenzenes and their metabolites to reach and react with target tissues or molecules. This type of information should contribute to a better understanding of the trends observed in the biological effects of the chlorinated benzenes.

Metabolism studies would provide information on whether or not chlorobenzenes or their metabolites do form covalent compounds with macromolecules, particularly in the brain and gonads and in organs from which excretion is especially slow. If chlorobenzenes do form covalent compounds with macromolecules, experiments could determine whether binding is to DNA, protein, or both. These studies would also provide data on the distribution of chlorobenzene compounds to tissues and organs of the test species and the rates of their clearance from these tissues.

EPA believes that metabolism testing should be performed to help determine the degree of commonality between members of the chlorinated benzenes group with respect to biological effects. EPA is not now proposing metabolism testing because currently proposed test standards for metabolism focus on absorption and excretion studies. EPA is soliciting comment on what other metabolism tests should be included in test standards in order to appropriately characterize these chemicals.

E. Decision Not To Require Testing for Acute Toxicity and Epidemiology

1. Acute toxicity. As discussed in section III.A. of the Chlorinated Benzenes Support Document, EPA believes that available human and animal data are sufficient to evaluate the acute toxicity of the chlorinated benzenes. Therefore, EPA is not proposing further testing for acute toxicity at this time.

2. Epidemiology. EPA believes that an epidemiological study of workers exposed to the chlorinated benzenes could potentially provide valuable data for evaluating the potential risk from such exposures. However, an epidemiological test requirement is not being proposed today because EPA is currently unable to identify a suitable cohort. The identification of a suitable cohort is a complex process requiring specific information. If EPA obtains information identifying a suitable cohort under Section 8(a) of TSCA, the Agency will evaluate the need for proposing an epidemiologic study on chlorinated benzenes considering in its evaluation test results obtained from the required tests if they are available. In the case of chlorinated benzenes, EPA is soliciting public comment on the feasibility and desirability of an epidemiological study.

VI. Summary of Proposed Rule

A. Chloromethane

1. Effects to be tested.

• Oncogenicity. EPA is proposing that a two-year oncogenicity study be conducted in accordance with proposed oncogenicity test standards to be promulgated under 40 CFR 772.113–2. The proposed oncogenicity standard was published in the Federal Register of May 9, 1979 (44 FR 27334). For chloromethane, EPA is proposing modification of the proposed standard to require the use of the hamster instead of the rat because studies have shown that the rat is relatively insensitive to the chronic effects of chloromethane. Thus, the Agency is proposing that mice and hamsters be used in the oncogenicity study and solicits comments on the use of these species.

• Structural Teratogenicity. EPA is proposing that a structural teratogenicity study be conducted in accordance with the proposed structural teratogenicity test standard to be promulgated under 40 CFR 772.116–2. The proposed standard was published in the Federal Register of July 26, 1979 (44 FR 44054).

EPA is modifying the proposed standard to require use of another species instead of the rat. EPA has inferred that since rats are relatively insensitive to the chronic effects of chloromethane they may also be insensitive to its teratogenic effects (see section III.E. of the Chloromethane Support Document). Thus, EPA is proposing that two of the species recommended in the proposed standard other than the rat be used in the structural teratogenicity test and solicits comment on the exclusion of the rat. This proposal is discussed further in section X, Issues for Comment. EPA does not believe the characteristics of chloromethane necessitate any other changes to the proposed standard.

2. Test Substance. The EPA is proposing that a grade of chloromethane of 99.95 percent or greater purity be used as the test material in the required tests.

Because chloromethane may contain contaminants which may cause a toxicological effect of concern and are likely to interfere significantly with the outcomes of the proposed tests, EPA believes the proposed higher level of purity should be used. Chloromethane of this purity is available commercially. General considerations for selection of the appropriate form of the substance for testing were discussed earlier in this preamble.

3. Route of administration. Because chloromethane is a gas, the route of administration must be by inhalation.

4. Persons required to test, exemptions. Because chloromethane is used almost exclusively as a chemical intermediate in the production of other products, the maximum potential for exposure exists during its manufacture, processing, and use. In comparison, distribution and disposal activities at present are not of concern. Therefore, in accordance with Section 4(b)(3)(B) of TSCA, the EPA is requiring that testing be performed by both manufacturers and processors of chloromethane.

Because "manufacture" is defined in Section 3(7) of TSCA to include "import", importers of chloromethane are subject to this rule. EPA also proposes to make a Section 12(a)(2) finding requiring persons who manufacture these chemicals solely for export purposes to test in accordance with this rule. Because much of EPA's concern derives from exposure that may occur during domestic manufacturing, EPA believes manufacturing for export purposes may present an unreasonable risk of injury to health within the United States.

EPA's proposed exemption policy and procedures may be found elsewhere in today's Federal Register. Section 771.10(e) as proposed provides that persons subject to the rule who do not test chloromethane or participate in a joint test group to test chloromethane must apply to EPA for an exemption from the test rule. EPA will accept exemption applications from manufacturers and processors of chloromethane after the effective date of this test rule. Persons wishing to comment on EPA's exemption policy and procedures should read the exemption notice. EPA is not proposing to require the submission of equivalence data as a condition for exemptions from the proposed testing because EPA has

designated a relatively pure grade of chloromethane for testing.

5. Reporting requirements. This proposal contains additional study plan requirements that will be promulgated as part of the final test standards.

• Oncogenicity. The Agency's proposed test standard requires that a Study Plan be submitted to EPA at least 90 days before the initiation date of the test. In addition, Interim Quarterly Summary Reports are required during the 24–30 month test period. The proposed deadline for submission of the Final Report is no later than 53 months after the effective date of the final test rule.

• Structural Teratogenicity. The Agency is proposing that a Study Plan be submitted to EPA no later than the initiation date of the test and preferably earlier than this deadline. In addition, it is proposed that no Interim Quarterly Summary Reports be required. The proposed deadline for submission of the Final Report is no later than 11 months after the effective date of the final test rule.

B. Chlorinated Benzenes

1. Effects to be Tested.

• Oncogenicity. EPA is proposing that two-year oncogenicity study be conducted on the designated chlorinated benzenes (see B.2.a.), excluding monochlorobenzene and *o-* and *p-* dichlorobenzenes, in accordance with the proposed oncogenicity test standards to be promulgated under 40 CFR 772.113–2. The proposed standard was published in the Federal Register of May 9, 1979 (44 FR 27334). The proposed standard calls for the use of two species of rodents in the study; both the rat and mouse. However, in this case, EPA is specifically proposing that the strain of rat used should be Sprague-Dawley since a recent study has found that this strain is sensitive to production of tumors by benzene (a structurally related compound).

• Structural Teratogenicity. EPA is proposing that a structural teratogenicity study be conducted on the designated chlorinated benzenes, excluding pentachlorobenzene, in accordance with the proposed structural teratogenicity test standard to be promulgated under 40 CFR 772.116–2. This proposed standard was published in the Federal Register of July 26, 1979 (44 FR 44054). EPA does not believe the characteristics of the chlorinated benzenes necessitate any modifications or additions to the proposed generic teratogenicity standard.

• Reproductive Effects. EPA is proposing that a reproductive study be conducted on the designated chlorobenzenes, except 1, 2, 4-trichlorobenzene, in accordance with the proposed reproductive effects test standard to be promulgated under 40 CFR 772.116–3. This proposed standard was published in the Federal Register of July 26, 1979 (44 FR 44054). EPA does not believe the characteristics of the chlorinated benzenes necessitate any modifications or additions to the proposed generic reproductive effects standard.

• Subchronic/Chronic Effects. EPA is proposing that a 90-day subchronic toxicity study be conducted on the designated chlorobenzenes excluding pentachlorobenzene, in accordance with the proposed subchronic test standard to be promulgated under 40 CFR 772.112. This proposed standard was published in the Federal Register of July 26, 1979 (44 FR 44054). The oral subchronic standard calls for the use of two species, a rodent and a nonrodent. For the nonrodent species, the proposed standard strongly recommends the use of the dog. However, the dog has been shown to be relatively insensitive to toxic effects from exposure to the chlorinated benzenes (see section III.B. of the Chlorinated Benzenes Support Document). For this reason, EPA is proposing that for both oral and inhalation routes of administration only the rat be tested for subchronic/chronic effects. EPA does not believe the characteristics of the chlorinated benzenes necessitate any other modifications or additions to the proposed generic subchronic effects standard.

2. Test Substances.

(a.) Representative Sample. EPA has determined that a representative sample of chemicals in the chlorinated benzenes group be tested. This sample consists of the following chemicals:

Monochlorobenzene
1,2-Dichlorobenzene (*ortho*-Dichlorobenzene)
1,4-Dichlorobenzene (*para*-Dichlorobenzene)
1,2,4-Trichlorobenzene
1,2,4,5-tetrachlorobenzene
Pentachlorobenzene

The Agency's decision to propose testing of a representative sample rather than testing of all 11 category members rests in part on the chemical nature of the category and in part on available data on the biological effects of chlorinated benzenes.

As discussed in Section I.A.2. of the Chlorinated Benzenes Support Document, the structural relationships among the chlorinated benzenes lead to the expectation of regular progressive changes in properties going through the series from mono- to pentachlorinated benzene, with the discontinuities that arise from different isomeric arrangements of chlorine and hydrogen atoms being relatively minor in comparison with the overall trends. This expectation is supported by trends in physiochemical data of which several appear in Table 1, Section I of the Support Document. Thus, in proceeding from monochlorobenzene to pentachlorobenzene, densities, boiling points and partition coefficients show a gradual increase, while water solubility decreases. Since physiochemical properties determine, in a complex fashion, the biological effects of a substance, the observed regularity in these properties of the category provides a basis for expecting that biological data on a well-chosen sample of category members can be used to characterize the biological behavior of the untested members.

In addition, various data reviewed in the Chlorinated Benzenes Support Document support the position that there appear to be certain effects and biological properties associated with the chlorinated benzenes as a group. For example, in animal studies, all of the chlorobenzenes tested have effects on the liver, several have effects on the kidneys, and all those tested lead to changes in the hematopoietic system. Further, the data that are available on the metabolism of chlorobenzenes to support the conclusion that most if not all of the compounds undergo epoxidation, dechlorination, and/or oxidation by none-epoxide mechanisms, with various chlorophenols among the major products. In some cases, different chlorobenzenes are metabolized to a common chlorophenol.

This is not to imply that all category members will necessarily have identical effects or similar potencies for a given effect, but the Agency believes that scientific principles and available data and experience lead to a reasonable presumption that the biological behavior of these 11 chemicals will present a coherent picture of toxicity and that biological data on a well-chosen sample of category members can be used to characterize the biological behavior of the untested members.

In general, EPA has selected the six chlorinated benzenes which comprise the test sample on the basis of spanning the structural spectrum of the category taking into account production and exposure.

In choosing the category test sample, an important factor is that, with increasing chlorination, chlorobenzenes will be more resistant to metabolic attack and more likely to be retained in

body tissues. Thus a sample including only mono- and dichlorobenzenes would be unrepresentative because it would include only the compounds most subject to metabolic attack and least likely to be stored in tissues. EPA is, therefore, proposing a test sample that includes all levels of chlorination. Furthermore, the Agency believes that relative production volume should be an important factor in the sample selection. Applying these two criteria leads to the choice of monochlorobenzene, *o*- or *p*-dichlorobenzene, 1,2,4-trichlorobenzene, 1,2,3,4- or 1,2,4,5-tetrachlorobenzene, and pentachlorobenzene. EPA has decided to include both *o*- or *p*-dichlorobenzene in its test sample for two reasons. First, both have widespread general population exposure. Second, it seems prudent to include more than one isomer for at least one level of chlorination in order to provide information on to what extent the toxic effects of cholorbenzenes may be affected by the distribution of chlorine atoms. The 1,2,4,5-isomer of tetrachlorobenzene was chosen because its production is somewhat higher than that of the 1,2,3,4-isomer, and because there is not a more compelling reason to distinguish between them.

The six sample chemicals thus represent all levels of chlorination, the full range of physicochemical properties, and compounds having the highest commercial production among the chlorinated benzenes. Available data on chlorinated benzenes not included in the testing sample will serve as additional data points for evaluation of chlorobenzene toxicity when the test results become available.

(b.) Purity of the Test Substances. The test material of the six chlorobenzenes used in health effects testing should be substantially free of contaminants that are likely to interfere significantly with the effects to be observed. Since the chlorinated benzenes are often contaminated with benzene and hexachlorobenzene, two related compounds of known toxicity, EPA believes that the tested chlorobenzenes should be of 99.9 percent or greater purity with no more than 0.05 percent benzene and 0.05 percent hexachlorobenzene. The 99.9 percent criterion can be satisfied without excessive difficulty by the purification of commercially available materials. In addition, commercially available chlorinated benzenes have been offered at 99.9 percent level of purity. Sample purity can be checked by currently available analytical methods (e.g., gas chromatography and mass spectrometry).

EPA is aware that monochlorobenzene is available with less than .05 percent benzene, and EPA believes that benzene concentrations below .05 percent are unlikely to significantly affect the results of the tests. Furthermore, other chlorinated benzenes are likely to contain less benzene than mono-chlorobenzene. Thus, EPA believes that .05 percent benzene is a reasonable level to require. The .05 percent level for hexachlorobenzene was selected because the Agency believes that this level is also unlikely to significantly affect test results and because it is probably a relatively easy level to obtain. The Agency is soliciting comment on these levels of purity.

3. *Route of Administration.* The selection of the route of administration of a test substance emphasizes the following considerations:

(a) The physical and chemical constants of the test substance, such as volatility or boiling point, under conditions of probable or actual human exposure,

(b) the predominant portal(s) of entry of the test substance in man, and

(c) the practicability of experimentally approximating the probable conditions of human exposure, given the physical and chemical constants of the test substance and the relative adaptability of the test species to the proposed route of administration.

For subchronic, structural teratogenicity, and reproductive effects testing, EPA is proposing that monochlorobenzene be tested with inhalation as the route of administration. Monochlorobenzene is a volatile liquid, used primarily as a solvent and as an intermediate for synthesis of chloronitrobenzenes. It appears that inhalation would be the most likely exposure route for humans. It is proposed that *ortho*- and *para*-dichlorobenzene be tested with inhalation as the route of administration. Both of these compounds are used in a variety of household products. *para*-Dichlorobenzene, is a solid that sublimes readily; *ortho*-dichlorobenzene, a relatively volatile liquid. Inhalation is the most likely exposure route for humans for the two dichlorobenzenes in both the occupational setting and in the home.

It is proposed that 1,2,4-trichlorobenzene, a liquid, be tested with oral gavage as the route of administration for the structural teratogenicity study. In teratogenicity studies, gavage is the preferred route since addition of test chemical to the feed or water may result in a reduction of food or water intake, and consequently seriously compromise the value of the study. It shall be administered in the diet for the subchronic, and oncogenicity tests. (Reproductive effects testing is not proposed for 1,2,4-trichlorobenzene). This compound is partly used as a dye carrier. Upon completion of the dyeing process, the carrier is removed from the fabric and discharged as waste. 1,2,4-Trichlorobenzene has also been used in transformers. It has been identified in drinking water, and it appears that the most likely exposure route for humans would be orally through the water supply.

It is proposed that pentachlorobenzene, a crystalline solid, be admixed in the diet for oncogenic and reproductive studies (subchronic studies and structural teratogenicity tests are not proposed for pentachlorobenzene).

It is proposed that 1,2,4,5-tetrachlorobenzene, also a crystalline solid, be admixed in the diet for administration to the animals for the purposes of subchronic, oncogenic, and reproductive studies. The route of administration for the structural teratogenicity study of 1,2,4,5-tetrachlorobenzene should be oral gavage. As stated above, gavage is the preferred route for teratogenicity studies. 1,2,4,5-tetrachlorobenzene has been used in transformers. It has been found in fresh water fish and in herring gull eggs. Pentachlorobenzene is a contaminant in the production of other chlorinated benzenes and is disposed of as waste. It has been found in many foods. Therefore, the most likely exposure route for humans is orally through the food supply.

4. Persons Required to Test, Exemptions. On the basis of the use of chlorinated benzenes as chemical intermediates and for other industrial purposes, EPA has determined that exposure may occur to industrial workers and the general population from the manufacture, processing, use, and disposal of chlorinated benzenes. Therefore, EPA is proposing that all manufacturers and processors of any of the eleven chlorinated benzenes defined in § 773.100(a) be required to perform the health effects testing specified in the proposed test rule.

Because "manufacture" is defined in Section 3(7) of TSCA to include "import", importers of the chlorinated benzenes are subject to this rule. EPA also proposes to make a Section 12(a)(2) finding requiring persons who manufacture these chemicals solely for export purposes to test in accordance with this rule. Because much of EPA's

concern derives from exposure that may occur during domestic manufacturing, EPA believes manufacturing for export purposes may present an unreasonable risk of injury to health within the United States.

Two alternatives to EPA's proposal to require all manufacturers and processors of chlorinated benzenes to test the representative sample are being considered: (1) Require all manufacturers and processors of chlorinated benzenes to test the chlorinated benzenes which they manufacture or process but perform the testing in two stages—six chemicals now and, if necessary, the remaining five later, and (2) require only the manufacturers and processors of the six sample chemicals to perform testing of the chemicals which they manufacture or process as individual chemicals. In the second alternative EPA would later issue a separate test rule to require testing on all or some of the remaining five chlorobenzenes if necessary. Discussion of these alternatives may be found below and in the Proposed Statement of Exemption Policy and Procedures in today's Federal Register.

EPA is proposing the "whole category" approach described in Section III.D. In addition, EPA is considering the two other approaches and may adopt one of them in the final rule, depending on the public comments received and EPA's continued evaluation.

EPA is proposing that all manufacturers and processors of the chlorinated benzenes be required to test, or help pay for testing, the sample of six chlorinated benzenes proposed for testing.

An alternative to the proposed (Alternative 1) approach would require all persons who manufacture or process the chlorinated benzenes to test them but to perform the testing in stages. Thus, the present sample of six chemicals would be the first stage tested. Manufacturers and processors of these six chemicals would test now or obtain an exemption as for any individual chemical, whereas persons who manufacture and process the remaining five chemicals (1,3-dichlorobenzene, 1,2,3-trichlorobenzene, 1,3,5-trichlorobenzene, 1,2,3,4-tetrachlorobenzene, and 1,2,3,5-tetrachlorobenzene) would not begin testing these compounds until the results of the tests on the first six were available. If the results of the first six could characterize the entire category, the manufacturers of the remaining five would obtain exemptions and would reimburse the manufacturers and processors of the six chemicals that were tested.

A second alternative that EPA is considering (Alternative 2) would require that only the six compounds designated be tested as individual chemicals. Thus, manufacturers and processors of 1,3-dichlorobenzene, 1,2,3-trichlorobenzene, et cetera, would not be subject to testing under this rule. The manufacturers and processors of the six chemicals subject to the rule would test or apply for exemptions as they would for any individual chemical.

Because of the specific facts pertinent to the chlorinated benzenes, the same sample would be chosen under all three approaches. In addition, to their potential to act as representative of all chlorinated benzenes, the six chemicals in the sample are those chlorinated benzenes that are produced in relatively higher quantities. Thus, even if EPA decided not to pursue testing of the entire category or not to choose a sample based on structure and physicochemical properties as well as production, EPA would want to test these chemicals as individual chemicals. Under such circumstances, it would not be inequitable to have the manufacturers and processors of monochlorobenzene, *o* and *p*-dichlorobenzenes, 1,2,4-trichlorobenzene, 1,2,4,5-tetrachlorobenzene, and pentachlorobenzene bear the entire cost of testing their respective chemicals.

The economic implications of these options are discussed in Section VII.

5. Reporting Requirements. This proposal contains additional study plan requirements that will be promulgated as part of the final Test Standards.

- Oncogenicity. The Agency's proposed test standard requires that a Study Plan be submitted to EPA at least 90 days before the initiation date of the test. In addition, Interim Quarterly Summary Reports are required during the 24–30 month test period. The proposed deadline for submission of the Final Report is no later than 53 months after the effective date of the final test rule.
- Structural Teratogenicity. The Agency is proposing that a Study Plan be submitted to EPA no later than the initiation date of the test and preferably earlier than this deadline. In addition, it is proposed that no Interim Quarterly Summary Reports be required. The proposed deadline for submission of the Final Report is no later than 11 months after the effective date of the final test rule.
- Reproductive Effects. The Agency's proposed test standard requires that a Study Plan be submitted to EPA at least 90 days prior to the start of the test. In addition, Interim Quarterly Summary Reports are required during the 13-month test period. The proposed deadline for submission of the Final Report is no later than 29 months after the effective date of the final test rule.
- Subchronic/Chronic Effects. The Agency proposes that a Study Plan be submitted to EPA no later than the initiation date of the test and preferably earlier than this deadline. It is proposed that no Interim Quarterly Summary Reports be required. The proposed deadline for submission of the Final Report is no later than 12 months after the effective date of the test rule.

VII. Economic Analysis of Proposed Rule and Alternatives

To evaluate the potential economic impact of test rules, EPA has adopted a two-stage approach. All chemicals will go through a Level I analysis; this analysis consists of evaluating each chemical (or group) on four market characteristics, (1) demand sensitivity, (2) cost characteristics, (3) industry structure, and (4) market expectations. The results of the Level I analysis (along with a consideration of the cost for the required tests) will indicate whether the possibility of a significant adverse economic impact exists. Where the indication is negative, no further economic analysis is done for that chemical substance or group. However, for those chemical substances or groups where the Level I analysis indicates a potential for significant economic impact, a more comprehensive and detailed analysis will be conducted. This Level II analysis attempts to predict more exactly the magnitude of the expected impact.

The methodology, analyses, costs of the test requirements, and conclusions are presented in the Economic Analysis Support Document accompanying this rulemaking package. The following is a summary of the economic impact of this rule.

A. Cost of the Test Requirements for Chloromethane and the Representative Group of Chlorobenzenes

Compound	Total cost (thousands)	Annualized cost (thousands)*
Chloromethane	$700–$1,300	$144–$267
Monochlorobenzene 1,2-	192–416	39–85
Dichlorobenzene 1,4-	192–416	39–85
Dichlorobenzene 1,2,4-	192–416	39–85
Trichlorobenzene 1,2,4,5-	383–1,148	79–236
Tetrachlorobenzene	440–1,319	90–271
Pentachlorobenzene	413–1,238	85–254

* 20% cost of capital for 20 years.

B. Chloromethane

The Level I analysis indicated that the proposed test rule will not pose any significant economic impact on chloromethane manufacturers. A Level II anaylsis was not needed.

This conclusion is based upon the following considerations: first, demand for chloromethane appears to be insensitive to change in price. That is, an increase in price is expected to result in a proportionately smaller decrease in the quantity demanded. The primary use of chloromethane is in the production of silicones, and the demand for silicones is particularly insensitive to price. In addition, the market for silicone products is clearly expanding, indicating that the demand for chloromethane will be increasing.

C. Chlorobenzenes

The result of the Level I analysis indicated the possibility of potential economic impact as a result of these proposed rules. The highest volume chlorobenzene is monochlorobenzene, which is used primarily in industrial solvent applications. The market for monochlorobenzene is characterized by many potential substitutes which suggested that the demand for monochlorobenzene could be price sensitive. The dichlorobenzenes (par- and ortho-) appeared to face similar market conditions. Although the higher chlorobenzenes seemed to face less competition from substitutues, their production levels appeared to be significantly lower. This tentative conclusion was based on their weak market performance over the past few years and pessimism regarding the end-uses for chlorobenzenes. Therefore on the basis of competitiveness, potential price sensitivity, and production complementarity, chlorobenzenes were considered a potentially senstitive product group and, thus candidates for a Level II analysis.

However, the Level II analysis concluded that the economic impacts will be small. This conclusion was based on the following findings:

(1) Annualized testing costs will not be unduly large, either in an absolute or relative sense, particularly if the proposed approach to testing and exemptions is adopted;

(2) The demand for chlorobenzenes (both as a group and for individual members) appears relatively insensitive to price changes;

(3) The growth of export markets may mitigate the effects of fairly static domestic market for chlorobenzenes; and

(4) The small (and perhaps, the most financially marginal) producers have already abandoned the market.

While the Level II analysis indicates that there may be some impacts (most likely on very small processing firms), it is expected that the impacts (if realized) will be less than estimated for two major reasons: (1) the analysis followed a "worst case" approach, and (2) the possibility of reimbursement (cost sharing) will reduce the absolute cost that each firm affected by this proposed rule will have to bear.

D. Economic Anaylsis of Regualtory Alternatives for Chlorobenzenes

Three separate schemes for testing chlorobenzenes are being considered for this test rule. Using the methodologies developed and discussed in the Economic Analysis Support Document, the differential impacts of each alternative were compared through examination of resultant product price changes.

As discussed in the Economic Analysis Support Document, under the proposed approach and Alternative 2, only six chemicals are proposed for testing. The only difference in the two approaches, in terms of economic impact, is that under the first alternative, all manufacturers and processors of chlorinated benzenes must share the testing costs; whereas, under the second alternative, only manufacturers and processors of mono-, di-, tri-, tetra-, and pentachlorobenzene may be required to pay. However, this difference appears to be insignificant for this rule since the producers of the chlorobenzenes that are not being tested seem, on the whole, to be the same persons who produce the six chlorobenzenes for which testing is being required. Consequently, the greatest difference appears to be between Alternative 1 and the other options since only the former approach is most likely to entail the testing of all 11 chlorobenzenes.

Despite these apparent distinctions, the conclusions with regard to the three options are identical. Little or no economic impact is expected. The impact is particularly modest if the Agency promulgates this rule with the exemption policy being proposed today. In that case, all six of the test substances will face a testing cost equivalent to approximately ¼ cent per pound of production, and the fungicide PCNB (the end-use of tetra- and pentachlorobenzene) will face an increase of about 0.6 cent per pound. Under the two alternative exemption approaches, the upper three chlorinated benzenes would face testing costs equivalent to between 2.8 cents per pound and 25.4 cents per pound, with PCNB facing additional input costs equivalent to between 0.3% and 14.2% of its selling price. However, because of its strong market position, even those increased costs are not expected to affect consumption of that product.

The Agency invites comments on the methodology, analyses, and conclusions. Comments should be accompanied by relevant data.

VIII. Availability of Test Facilities and Personnel

In addition to the requirements discussed previously, Section 4(b)(1) requires EPA to consider "the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule."

Because this is the first test rule under TSCA and covers relatively few chemicals, EPA believes there will be available resources to perform the required testing. The rule initially requires testing of only chloromethane and six of the chlorinated benzenes; at most, testing could be required later for the five other chlorinated benzenes granted contingent exemptions. In addition, it is expected that the many manufacturers and processors subject to the rule will not pursue testing individually, but rather will make use of joint testing arrangements or the exemption and reimbursement provisions of Section 4 to minimize the number of tests that will be performed.

EPA is aware that as more test rules are developed, the cumulative effects of testing requirements under TSCA and the Federal Insecticide, Fungicide, and Rodenticide Act may be significant. Hence, the Office of Regulatory Analysis (ORA) of the Office of Pesticides and Toxic Substances is currently developing the necessary

methodology for assessing the potential resource impact of EPA testing requirements on the testing community.

IX. Compliance and Enforcement

Compliance and enforcement issues have been discussed in the proposed oncogenicity and chronic effects standards published in the Federal Register May 9, 1979 (44 FR 27334). When promulgated, the standards will appear under 40 CFR 770.5.

X. Issues for Comment

The public is encouraged to submit comments on the various matters discussed in the preamble and accompanying support documents. In addition, EPA specifically requests comments on the issues highlighted below. Part A addresses scientific issues relating to the proposed rules on chloromethane and the chlorinated benzenes, and Part B discusses scientific issues pertaining to EPA's plans to propose test rules and standards for neurotoxicity (neurologic and behavioral effects), behavioral teratogenicity, mutagenicity, metabolism, and epidemiology. Part C raises general issues concerning this rulemaking and Section 4 of TSCA.

Review of the various support documents and related Federal Register notices will facilitate comments on the issues listed below. In particular, the Support Documents for chloromethane and the chlorinated benzenes indicate EPA's views on the scientific issues in further detail.

As stated previously, there is no need to repeat comments that were previously submitted to EPA concerning the proposed health effects standards.

A. Scientific Issues Pertaining to Proposed Rule

1. *Chloromethane.*

(a) Are the species proposed for oncogenicity testing and structural teratogenicity testing appropriate for assessing these risks associated with chloromethane? In addition, should EPA specify which species should be used or should the choice be made by those performing such tests?

The Agency believes that chronic studies have shown that the rat is relatively insensitive to the chronic effects of chloromethane. Therefore, EPA is proposing that the oncogenicity tests be conducted using mice and hamsters instead of rats and that the species selected for the teratogenicity study be in accordance with the proposed test standard except that the rat should not be selected (see sections D and E of the Chloromethane Support Document, respectively). The Agency solicits comment on the specification that the rat is not to be used for these studies.

(b) Do any additional modifications of the testing procedures or standards need to be made for testing chloromethane?

EPA has tailored this test rule to chloromethane by proposing that all tests be performed with inhalation as the route of exposure. The Agency has not specified any other modifications to the test standards other than the use of a species other than the rat for structural teratogenicity and oncogenicity testing (discussed in a. above).

(c) Should the structural and behavioral teratogenicity studies be combined? If so, what methodology should be used?

EPA is proposing that structural teratogenicity tests be performed on chloromethane. The Agency is interested in comments on whether modifications in the structural teratogenicity tests which would adequately test for behavioral teratogenicity are feasible and/or desirable. Commentors should also consider whether combining these tests would delay obtaining results from the structural teratogenicity tests.

(d) Is the oncogenicity testing being carried out under contract for CIIT adequate to assess chloromethane's oncogenic potential?

CIIT has reported a number of problems associated with the execution of the CIIT sponsored tests. EPA believes these problems potentially preclude their usability by the Agency to assess chloromethane's oncogenic potential (see section III.D. of the Chloromethane Support Document). The Agency solicits comment on this issue.

(e) Are there significant studies which have not come to the attention of EPA which would provide sufficient data and experience for evaluation of chloromethane especially with respect to reproductive effects?

Studies which have been considered by EPA in the course of this rulemaking are listed in the bibliography of the Chloromethane Support Document or are otherwise available in the public record of this proceeding. EPA acquired this information through a comprehensive literature search, information submitted in response to a Section 8(d) rule, and requests for information addressed to other Federal Agencies. EPA was unable to identify any data to support a conclusion that chloromethane may present a risk of reproductive effects and is therefore particularly interested in information on reproductive effects.

2. *Chlorinated Benzenes.*

(a) Should any additional chlorinated benzenes be incorporated in the sample designated for testing? Should any be deleted? Alternatively, should all chlorinated benzenes that are members of the category, as defined by EPA, be tested?

The options considered in the choice of chemicals to include in the sample designated for testing are discussed in section C which follows on General Issues. EPA's sample of chlorinated benzenes is intended to span the structural spectrum of the category taking into account exposure. EPA expects to be able to extrapolate the results of testing on the sample to the category as a whole. EPA is soliciting comment as to whether it is necessary to include any other chlorinated benzenes in the test sample, whether a lesser number of chemicals would be appropriate, or whether all chlorinated benzenes category members should be tested (i.e., extrapolation of results from the sample is likely to be infeasible), or whether a sample should be selected on another basis.

(b) Do any additional modifications need to be made to the proposed routes of administration for testing particular chlorinated benzenes?

The Agency's proposed routes of administration have been discussed previously in Section VI.B.3 of this preamble. For the most part the routes were selected taking into account the route of human exposure, characteristics of the particular chemical, and effect of concern. EPA also considered recommending the same route for all chemicals tested for a certain effect because this might aid in EPA's extrapolation of results from the tested chemicals to other chlorinated benzenes. If all tests were performed using an oral route of administration instead of inhalation, testing costs for the lower three chlorinated benzenes would be reduced by about $360,000 to $450,000. However, EPA believes that despite the benefits to be had from using the same route of administration and the lower economic costs of this approach, it is more desirable to obtain test data from animals exposed to chlorinated benzenes in a manner which mimics the major route by which humans are exposed.

(c) What species and strains are most appropriate to use for assessing the leukemogenic potential of the lower chlorinated benzenes (mono- and di-)?

Because the lower chlorinated benzenes are more closely related to benzene than the higher ones and benzene has been associated with acute myelogenous leukemia in humans, it follows that leukemia is an effect of

concern for the lower chlorinated benzenes. The Sprague-Dawley rat, the species recommended by the Agency for oncogenicity testing of the higher chlorobenzenes, and the Fischer rat used by the National Cancer Institute (NCI) for testing the lower chlorinated benzenes may not be the most sensitive rodent strains for detecting chemically induced acute myelogenous leukemia; and, therefore, these may not be the appropriate species to use to assess leukemogenic potential. EPA has identified three species which are susceptible to chemically induced acute myelogenous leukemia: Rhesus monkey, Cynomolgus monkey, and Donryu rat. The Agency solicits comments on the desirability and feasibility of proposing additional oncogenicity testing of the lower chlorinated benzenes using one of these species.

(d) Is the Agency's requirement that the chlorinated benzene test chemicals be 99.9 percent pure with no more than .05 percent benzene and .05 percent hexachlorobenzene appropriate? Also, what additional costs would be incurred if the level of these two contaminants were specified at .01 percent instead of .05 percent?

EPA believes that chlorinated benzenes of 99.9 percent purity are readily available for use in the proposed tests either by direct use of commercial materials offered at this purity or by purification of other chlorobenzene materials. In addition, the Agency is aware that monochlorobenzene with no more than .05 percent benzene contamination is available and that it is likely that the other chlorobenzenes contain even less benzene than monochlorobenzene. Furthermore, EPA believes that hexachlorobenzene contamination can be limited to .05 percent level. EPA solicits comment on the belief that these purity requirements can be relatively easily met and on the costs of meeting .01 percent benzene and .01 percent hexachlorobenzene contamination levels.

(e) Should the structural and behavioral teratogenicity studies be combined? If so, what methodology should be used? EPA is proposing that structural teratogenicity tests be performed on the chlorinated benzenes. The Agency is interested in comments on whether modifications in the structural teratogenicity tests which would adequately assess for behavioral teratogenicity are feasible and/or desirable. Commentors should also consider whether combining these tests would delay obtaining results from the structural teratogenicity tests.

(f) Are there significant studies that have not come to the attention of EPA which would provide sufficient data and experience for evaluation of the chlorinated benzenes?

Studies which have been considered by EPA in the course of this rulemaking are listed in the bibliography of the Chlorinated Benzenes Support Document or are otherwise contained in the public record of this proceeding. EPA acquired this information through a comprehensive literature search, through information submitted in response to a Section 8(d) rule on the lower chlorinated benzenes, and through requests for information addressed to other Federal Agencies.

(g) Are data from 90-day subchronic studies adequate for assessing the potential chronic effects of the chlorinated benzenes?

Several studies discussed in the Chlorinated Benzenes Support Document provide the basis for proposing 90-day subchronic toxicity studies as predictive for more long-term chronic effects with the exception of those related to oncogenicity, delayed hormonal or neurotoxic effects. The advantage of requiring 90-day subchronic studies are that test results would be available earlier and at substantially lower cost than would be the case if the Agency required chronic studies. EPA believes that 90-day studies will be sufficient to predict long-term effects from the chlorinated benzenes. Some studies on such compounds as benzene, bromobenzene, and hexachlorobenzene have shown that these chemicals exhibit toxic manifestations within 90 days. However, the Agency is concerned that factors such as accumulation potential of the chlorinated benzenes and the equilibrium concentration between free and tissue/fat compartments might complicate extrapolation from subchronic studies to potential chronic effects. The Agency requests comment on the risks and benefits associated with the use of 90-day subchronic studies for evaluation of chronic effects of the chlorinated benzenes.

(h) What strain(s) of rat is (are) most appropriate for assessing the oncogenic effects and subchronic/chronic effects of the chlorinated benzenes?

EPA is proposing the use of the Sprague-Dawley rat for oncogenicity testing of the designated higher chlorinated benzenes (tri-, tetra-, and pentachlorobenzene) because this species has shown sensitivity to the tumor-producing effects of benzene. However, NCI is performing oncogenicity studies on the lower chlorinated benzenes (monochlorobenzene and *o*-and *p*-dichlorobenzenes) using the Fischer rat.

Comment is solicited on the selection of the appropriate strain of rat for the proposed oncogenicity and subchronic effects testing taking into consideration the following factors: (1) The benefits of recommending that the Agency's proposed oncogenicity testing use the same strain as NCI, i.e., Fischer, for extrapolation of results from the test sample to the category versus the benefits of using the Sprague-Dawley strain. (2) The Agency prefers that the subchronic studies use the same species and strain with which oncogenicity studies will be performed since the subchronic studies are used as range finding tests for the oncogenicity studies. (3) For the sake of extrapolation of test results to the various chlorinated benzenes, the Agency prefers that all six chlorinated benzenes for which subchronic studies are proposed be performed using the same species and strain. (Although it might be interesting if the subchronic studies on the lower chlorinated benzenes were performed in the Fischer rat since this would result in a comparison between inhalation and gavage administration of these substances.) (4) The historical data base on these strains.

(i) Are the present oncogenicity studies as cited in the Chlorinated Benzenes Support Document sufficient positive controls to determine the sensitivity of the rodent to the oncogenic effects of the chlorinated benzenes?

The Agency's oncogenicity test standard published in the Federal Register of May 9, 1979 discusses the usefulness of positive controls to establish the inherent sensitivity of the test animal to the test substance. The Agency is considering requiring a positive control(s) such as benzene and/or hexachlorobenzene as a model for the sensitivity of the test animal to the class of chlorinated benzenes. Comment is requested on the sufficiency of existing studies cited in the Chlorinated Benzenes Support Document for use as positive controls.

(j) Will oral subchronic tests on the chlorinated benzenes using only the rat (i.e., only one species) be sufficient to characterize the risk of subchronic/chronic effects?

Section III.B. of the Chlorinated Benzenes Support Document discusses the rationale for the use of the rat for the oral subchronic testing of certain chlorinated benzenes. EPA's proposed oral subchronic test standards and this proposal specify the use of two species; one rodent and one nonrodent (usually the dog), but EPA solicits comments as to whether oral subchronic studies performed using only the rat will be sufficient.

(k) Are there additional studies that should be performed to further characterize the teratogenic potential of pentachlorobenzene?

Section III.E. of the Chlorinated Benzenes Support Document discusses two teratogenic studies performed on pentachlorobenzene. In one there were no significant effects in mice whereas the other showed extra ribs in rats. EPA believes that this evidence indicates that pentachlorobenzene is a potential teratogen in animals but that these data do not provide evidence sufficient to determine that pentachlorobenzene is an animal teratogen. EPA solicits comment on the relationship of pentachlorobenzene's ability to produce extra ribs in rats and the determination that pentachlorobenzene is a teratogen in rats as well as the implication of these results on the teratogenic potential of pentachlorobenzene in humans.

B. Scientific Issues Pertaining to Deferred Rules

1. *Chloromethane.*

(a) In general, are the neurotoxicity tests under consideration by EPA appropriate for assessing the neurologic and behavioral effects associated with chloromethane?

Section IV.D. of this preamble discusses EPA's views of test methods for assessing the neurotoxicity (neurologic and behavioral effects) of chloromethane. The Agency is specifically interested in comment on the following issues:

(1) What methodology is most appropriate for establishing adequate levels for control of neurotoxic effects due to chronic exposure to chloromethane?

(2) In light of the previous animal studies on chloromethane discussed in section IV.D., what species would be most appropriate for neurotoxicity testing for chronic effects?

(3) Should EPA require testing of chloromethane for delayed neurological effects? If so, what period of observation and what means should be used to assess the severity and persistence of these effects in test species?

(4) Should EPA require testing of chloromethane for abuse potential? If so, what test procedure should be required?

(5) Should EPA require an ethanol interaction component in any chronic neurotoxicity studies which are required for chloromethane? If so, what methods for including this component are appropriate?

(6) Is there a need for assessing neurotoxicity due to mixed exposure hazards such as high acute exposures coupled with low chronic exposure to chloromethane? If so, what methods can be used for such testing?

(b) In general, are the mutagenicity test sequences under consideration by EPA appropriate for assessing the mutagenic risk associated with chloromethane?

Section IV.D. of this preamble discusses mutagenicity sequences to assess the risk of gene mutation and chromosomal aberration from exposure to chloromethane. It is the Agency's view that a sequential approach which first requires screening tests on a chemical and then requires confirmatory tests which are used for risk assessment purposes, is appropriate for testing chloromethane. The alternative of requiring only upper level tests whose results can be used for risk assessment was considered. However, the Agency favors the sequential approach to this alternative in an effort to minimize costs.

(c) Should EPA require behavioral teratogenicity testing of chloromethane? If so, what test methodologies for assessing behavioral teratogenic endpoints are appropriate for chloromethane?

Section IV.D. of this preamble discusses the rationale for requiring that chloromethane be tested for behavioral teratogenicity. EPA has also set forth the endpoints of concern for such testing of chloromethane. The Agency solicits comment on these endpoints and the use of the suggested reference, which describes tests for evaluation of behavioral and neurological development in offspring of exposed pregnant animals, for determining the behavioral teratogenic potential of chloromethane.

(d) Should an epidemiology study be proposed for chloromethane if a suitable cohort can be found?

EPA has decided not to propose an epidemiologic study on chloromethane for reasons stated in Section IV.E. in this preamble. However, EPA will consider proposing an epidemiology study on chloromethane, if a suitable cohort can be located. Given the chloromethane production and exposure situation, is it likely that a suitable cohort can be found? Comment also is solicited as to whether an epidemiology study should be conducted if a cohort can be located.

(e) Should EPA propose further subchronic/chronic effects testing of chloromethane?

Section IV.E. of the preamble discusses the Agency's rationale for deciding not to propose further subchronic/chronic effects testing of chloromethane. The Agency is interested in receiving comment on this decision.

2. *Chlorinated Benzenes.*

a. In general, are the neurotoxicity tests under consideration by EPA appropriate for assessing the neurologic and behavioral effects associated with the chlorinated benzenes?

Section V.D. of this preamble discusses EPA's views on test methods for assessing the neurotoxicity of the chlorinated benzenes. The Agency is specifically interested in comment on the following issues:

(1) Are the suggested motor function tests appropriate for measuring the neurologic and behavioral effects from chlorinated benzenes?

(2) Is use of rodents in the first tests of a neurotoxicity sequence and use of primates in confirmatory tests appropriate?

(3) Should neurotoxicity studies be longer than 90 days in order to adequately assess the potential of chlorinated benzenes for causing neurologic and behavioral effects?

(4) Are the methodologies presented in the suggested references appropriate for neurotoxicity testing of chlorinated benzenes?

(b) Should EPA propose measurement of behavioral and neurological development of offspring of pregnant animals exposed to the chlorinated benzenes?

Section V.D. of this preamble discusses the rationale for requiring behavioral teratogenicity testing of the chlorinated benzenes. EPA solicits comment on the necessity for such testing and the usefulness of the suggested reference which describes potentially appropriate tests.

(c) In general, are the mutagenicity test sequences under consideration by EPA appropriate for assessing the mutagenic risk associated with chlorinated benzenes?

Section V.D.3 of this preamble discusses the mutagenicity sequences to assess the risk of gene mutation and chromosomal aberration from exposure to chlorinated benzenes. In addition, the appendix of the support document discusses in further detail the rationale for the proposed sequences. It is the Agency's view that a sequential approach, which first requires screening tests on a chemical and then requires confirmatory tests which are used for risk assessment purposes, is appropriate for testing the chlorinated benzenes. The alternative of requiring only those tests whose results can be used for risk assessment was considered. However, the Agency favors the sequential approach to this alternative in an effort to minimize costs.

(d.) Should EPA propose metabolism testing on the chlorinated benzenes? If

so, what test standards should be developed to appropriately characterize these chemicals?

Section V.D.4 of this preamble discusses the rationale for EPA's belief that metabolism testing of the chlorinated benzenes would be useful in determining the degree of commonality between members of the group with respect to biological effects. EPA solicits comment on whether metabolism testing should be proposed and what test standards need to be developed.

(e.) Should an epidemiology study for chlorinated benzenes be proposed if a suitable cohort can be found?

EPA has decided not to propose an epidemiologic study for the chlorinated benzenes for reasons explained in Section V.E.2 of this preamble. However, EPA is considering proposing an epidemiology study on chlorinated benzenes, if a suitable cohort can be located. Is it likely that a suitable cohort can be found for such a study? Comment is solicited as to whether an epidemiology study should be conducted if a cohort can be located.

C. General Issues

1. How much exposure information is pertinent to the unreasonable risk finding under Section 4(a)(1)(A)(i)?

EPA has taken the position that as long as it can be shown that some exposure to a substance exists or that there is a potential for such exposure, and there is the potential for serious health effects, a Section 4(a)(1)(A)(i) finding can be made. Presumably, more widespread exposure would be necessary under Section 4(a)(1)(A)(i) if the potential health effects of concern were less severe. (See Section III.B.)

2. In considering whether an activity causes sufficient current or potential exposure to justify a finding that it may present an reasonable risk, to what extent should the Agency take into account the possibility of accidental or intermittent exposures, in view of the fact that tighter engineering controls, transportation safeguards, etc., might be adopted as an appropriate control measure?

EPA has not yet made a Section 4(a)(1)(A)(i) or 4(a)(1)(B)(i) finding solely on the basis of possible accidental exposures. However, the Agency believes such possibilities are an important consideration in deciding whether or not to require testing of a chemical. The possibility of adopting appropriate engineering or other controls potentially might make such activities unreasonable risks in the Agency's view, were the effects findings to be confirmed. (See section III.B.)

3. When EPA determines that a chemical is already well-characterized for a serious health (or environmental) effect and that controls for that effect would be likely to prevent harm from other health (or environmental) effects, should the Agency require testing for other effects which are not yet fully characterized and for which Section 4(a) findings might be made? In what circumstances would such a policy choice be appropriate?

Today in a separate notice EPA is publishing its determination that it plans to proceed to a pre-regulatory assessment of acrylamide on the basis that its neurotoxicity is well characterized and that any control adopted for acrylamide based on its neurotoxicity will likely provide reasonable protection from the other effects due to the allowance of reasonable margins of safety. In addition, a long-term study has been initiated by industry which might present additional information concerning other potential effects. Thus, EPA does not believe that it would be in the public interest to spend additional resources to perform a thorough assessment of these other effects nor does the Agency plan to require industry to spend resources to test for these effects. (If valid conclusions cannot be drawn from the industry study, EPA will reconsider this decision.) EPA recognizes that in rejecting the alternative to always require testing for effects which are not fully characterized, it is leaving gaps in the toxicity data base it is trying to create and may in some cases fail to reduce the risk of a health hazard to the extent it could if the effect were fully characterized. However, EPA believes that in such circumstances this approach is warranted to conserve both the Agency's resources and testing resources in order that more pressing testing needs may be addressed (See the notice in today's Federal Register concerning acrylamide.)

4. To what extent should EPA consider ongoing testing in determining whether additional testing should be required for a chemical?

EPA does not believe that it should ignore ongoing tests of which it has knowledge when making findings under Section 4(a). However, the Agency has rejected the alternative of waiting until such testing is completed in favor of examing the test protocols and available interim data and making its findings on the basis of whether such a study is likely to be adequate or inadequate to characterize the chemical. (See, for example, the discussion of the CIIT-sponsored ongoing testing of chloromethane in the Chloromethane Support Document.)

5. Other than attempting to develop appropriate standards as rapidly as possible, are there other approaches that EPA might take when it believes that a chemical has met all of the Section 4(a) criteria other than the "testing is necessary" finding but there is no appropriate test standard available for the effect under consideration?

EPA considered the possibility of using references from the scientific literature as "standards" for specific chemicals where generic test standards have not yet been proposed. However, EPA has decided to devote more resources to the development of generally applicable test standards rather than the development of methodology for any particular chemical.

6. After a test rule has been made final, under what circumstances and utilizing what procedure should the Agency consider permitting sponsor-requested modifications to the test rules and test standards?

As a general rule, EPA believes that all requests for modifications should be made during the proposal stage for each test rule. Upon a showing of good cause and compelling necessity, however, the Agency may be willing to accept requests made at a later time. Such situations might result from complications arising during the testing procedure. EPA believes that the most desirable procedure in such circumstances would be for the sponsor to address such requests in writing to the Document Control Officer (see Addressess above). Because there may be a need for a quick response from EPA, it would be useful to have an expeditious, relatively informal process for addressing such requests. EPA is also considering the need or desirability of amending the test rule to reflect such post promulgation modifications.

7. EPA is considering a policy of utilizing sequenced testing in which negative results in tests early in the sequence serve as a stop point with respect to further testing. For which effects is this approach adequate to assess the consequences of exposure to chemicals?

EPA is attempting to develop a sequence of tests consisting of screening and confirmatory tests for both health and environmental effects in an effort to minimize the costs of testing and to avoid unnecessarily tying up scarce testing resources. However, to do so requires that there exist one or more relatively inexpensive screening test(s) for a given effect for which a negative

result can be accepted as a final determination that the chemical does not pose an unreasonable risk.

8. Is the Agency's approach to deciding what substance to test the most appropriate one?

EPA considered a totally *ad hoc* approach for determining what to test versus a case-by-case approach within a general policy stating considerations for selecting a test substance considered for purposes of Section 4 of TSCA. EPA decided upon the latter course. This preamble previously discussed some factors which bear upon the choice of test substances. Are there other considerations that the Agency should take into account in its approach for deciding what substance to test?

9. What role should information about exposure play in constructing a structure-based category meeting the finding under Section 4(a)(1)(A)(i) of TSCA?

Typically the production range encompassed by members of a class of chemical compounds (a structure-based category) as to which a finding may be made under Section 4(a)(1)(A)(i) is quite broad. It may range from no commercial production of one substance to hundreds of millions of pounds of another. Although an answer to this issue cannot be given without considering question 10 below, EPA has considered the following alternatives: (1) consider all chemicals of the group that result from commercial production (including, for example, isomers that are never marketed as such but are merely by-products which are impurities in a commercial grade product or which are discharged as a waste), (2) consider only those members that are expressly made as commercial end-products, (3) consider only those members that are produced above a certain threshold level, or (4) consider all chemicals of a group as members of the category when there exists a realistic potential of substitution of substances not commercially produced for those in commercial production due to similarities in physical and chemical properties. Because EPA believes that for such purposes it is the category as to which its findings are made, not the individual members of the category, it believes that the first and fourth alternatives are most appropriate. An additional reason for this approach is EPA's knowledge that high hazard may lead to unreasonable risk even with low exposure.

10. With respect to testing to be required for structure-based categories, should EPA utilize a sampling approach where the sampled members are considered to be representative of all members of the category, or require full testing of all members? If the former approach is chosen, what approach should EPA use in determining what is an appropriate subset to sample?

EPA has considered four alternatives with respect to the question of sampling within structure-based categories: (1) Do not sample— test every category member. This alternative would treat every chemical as an individual for purposes of testing, but discuss them as a group for convenience. (2) Sample only when there is strong evidence that one or more substances can, in fact, represent the category. (3) Sample on the basis of spanning the structural spectrum of a category taking into account exposure and production information. (4) Test the highest or most critical exposure substances. EPA has chosen option 3 because the Agency believes it is likely that data obtained on the sample members can be extrapolated to other members of the category. However, EPA recognizes that it may be necessary to require further testing of other members of the category should the test data from the sample show that there is not a sufficient basis for extrapolation. EPA believes it is infeasible to generally require the testing of all category members (option 1). The selection of option 2 would mean categories would rarely be used because it requires information ahead of rule promulgation that is generally not available. Option 4 was rejected because a sample chosen on the basis of exposure alone may not be truly representative of the category and, therefore, would not be likely to yield data which could be used to characterize the effects of the category.

11. If EPA adopts an approach of sampling for structure based categories, what approach to exemptions and reimbursement should the Agency take?

EPA has proposed one approach and is considering two alternative approaches for exemptions and reimbursements (See the Proposed Statement of Exemption Policy and Procedures in today's Federal Register and Section IV.B.4. of this preamble). EPA may adopt any one or a combination or minor variation of these approaches in its final rule.

12. How can the Agency assist in insuring a cooperative coordinated response from industry members subject to a test rule in order to minimize duplicative, costly testing?

In Section I. of the preamble which contains a section on the exemptions process, the Agency discusses its support of a coordinated response or joint testing approach of members subject to a test rule. Exactly what the Agency's role in this process is has not yet been defined.

13. How can EPA encourage voluntary testing of chemicals designated by the ITC while remaining confident that such tests will be carried out expeditiously and in a manner that will generate data acceptable to EPA?

For those chemicals in which there is agreement between EPA and industry that testing is necessary, it is advantageous for EPA and the public for industry to proceed with testing without waiting for EPA to issue a test rule. EPA is interested in working with industry to facilitate such testing and to insure that such data will meet EPA test standards and good laboratory practice requirements.

14. Should EPA adopt a special definition of "processor" for purposes of Section 4 testing responsibility? Should EPA exclude certain categories of "processor" from testing and exemption requirements and how should this be done?

The definition of processor found in the Act is broad and includes many people. If they are all subject to Section 4 test rules, this will likely complicate the exemption and reimbursement process. The options considered by EPA for restricting the number of processors subject to Section 4 are discussed in Section III.E. of this preamble. The Agency would like comment on these options and any suggestions which the Agency has not considered.

15. The Agency solicits comment on the proposed time frame for requiring submission of final reports containing the results of the tests proposed for chloromethane and the chlorinated benzenes.

EPA has proposed deadlines for submission of final reports on the proposed testing as follows:

Test	Months from the effective date of the rule
Oncogenicity	53
Structural teratogenicity	11
Reproductive effects	29
Subchronic/Chronic effects	12

These final dates were arrived at through the consideration of 5 major factors:

1. coordination among test sponsors,
2. study plan preparation,
3. ninety-day pre-test reporting requirement,
4. test performance,
5. analysis of test results and preparation of Final Report.

The time frame for each factor for each type of health effect test is shown in Table 2 of Section III F. of this preamble.

16. Because there is a different time frame for submission of data on each effect, should the effective period of the test rule also vary according to each effect?

Section 4(b)(4) of TSCA states that a test rule expires at the end of the reimbursement period for the test data for such substance. The reimbursement period begins when the data (the final reports) are submitted and ends five years after the date. However, depending upon the length of the data development and evaluation period, final reports will be submitted at different times for different effects. EPA requests comments on whether the effective period of the rule and the reimbursement period should vary according to each effect, or whether the periods should end at one specific time, such as five years after the first (or last) final report is received.

XI. Environmental Impact Statement

EPA is not required to prepare environmental impact statements under the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.* for test rules and has determined that voluntary preparation of an environmental impact statement is not appropriate for regulatins issued under Section 4 of TSCA. *See* the preamble to the Agency's rules for compliance with NEPA, 44 FR 64174 (Nov. 6, 1979).

XII. Public Participation

During the development of these proposed rules, several meetings and discussions were held with non-EPA scientists, industry officials, trade press, and representatives of environmental groups. A meeting was held on September 25, 1979, during which attendees discussed various issues including:

1. What form of a chemical to test ("pure" vs. technical grade substances),
2. who is a processor in terms of TSCA, and
3. the approach for testing structure-based categories.

A meeting was held on December 5, 1979, during which EPA representatives and officials from the Chemical Manufacturers Association discussed issues numbers 1 and 3 again, with focus on specific chemicals.

In addition, comments have been received in response to the Federal Register publications on October 12, 1977 (42 FR 55026) and October 30, 1978 (43 FR 50630) which discussed the ITC's designation of chloromethane and the chlorinated benzenes to the Priority List.

A meeting was held on February 25, 1980, with representatives of the Synthetic Organic Chemical Manufacturers Association (SOCMA) to discuss employee exposure to the chlorinated benzenes.

Draft documents contained in the first test rule package were distributed for comment on March 7, 1980, to the representatives of industry, environmental groups and trade press who participated in the September 25, 1979, meeting. A meeting to discuss the draft documents was held with these groups on March 27, 1980.

A meeting of the Administrator's Toxic Substances Advisory Committee (ATSAC) was held on March 20, 1980 to discuss this proposed test rule package.

A meeting of the EPA Science Advisory Board (SAB) was held on March 21, 1980, to discuss this proposed test rule package.

XIII. Public Meetings

EPA will hold a general public meeting on September 24, 1980, in Washington, D.C. to provide the public an opportunity to present comments and questions on these proposed rules as required by Section 4(b)(5) to EPA officals who are directly responsible for developing the rule and supporting analyses. The public meeting will start with a short summary by EPA of the proposed rules and will be followed by oral presentations from the floor. A time limit of 15 minutes per person, company, or organization may be imposed depending upon the number of requests. EPA will allot speaking times in advance of the meeting on a first come basis, although the Agency reserves the right to alter the order depending upon the nature of the particular comments and other relevant factors. For the benefit of all concerned, EPA encourages the elimination of redundant comments. If time permits, following these prepared presentations, EPA will receive any other comments from the floor. Presenters are invited, but not required, to submit copies of their statements on the day of the meeting. All such written materials will become a part of EPA's record for this rulemaking. In addition, the Agency will transcribe each meeting and will include the written transcripts in the public record. The exact location and time of this meeting will be announced later in the Federal Register and the press.

In addition to the general public meeting, EPA personnel responsible for developing these proposals will be available at EPA's discretion to meet in public sessions at EPA in Washington, D.C., during the 105 day comment period, with interested persons from individual companies, trade associations, organized labor and citizen organizations to discuss these proposals. EPA encourages using special request meetings for discussing technical data and implementation issues. However, persons should plan to present their views at the general meeting to ensure their opportunity for comment since special meetings will be held only when EPA believes that the subject is more appropriately discussed in a special format than in a general meeting. EPA will provide facilities and make other necessary arrangements for such meetings. The Agency will make transcripts or summaries of the meetings for inclusion in the official public record. While these meetings for inclusion in the official public record. While these meetings will be open to the public, active participation will be limited to those requesting the session and designated EPA participants.

Persons who wish to present comments at the September 24, 1980 general meeting should contact EPA no later than September 12, 1980 by calling toll-free 800-424-9065 (in Washington, D.C., call 554-1404), or by writing to the address listed at the beginning of this preamble under "For Further Information Contact". Persons wishing to arrange a special meeting should follow the same procedures.

XIV. Public Record

EPA has established a public record for this rulemaking (docket number 80T-126) which is available for inspection in the OPTS Reading Room from 9:00 a.m. to 5:00 p.m. on working days (Room 47 East Tower, 401 M Street, S.W. Washington, D.C. 20460). This record includes basic information considered by the Agency in developing this proposal. The Agency will supplement the record with additional information as it is received. The record includes the following information.

(1) Federal Register notices pertaining to this rule:

(a) Notice of proposed rule on chloromethane and chlorinated benzenes.

(b) Notices containing the ITC designation of chloromethane and chlorinated benzenes to the Priority List (42 FR 55026 and 43 FR 50630).

(c) Notice containing EPA's response to the ITC designation of chloromethane and chlorinated benzenes to the Priority List (43 FR 50134).

(d) Notices containing EPA's proposed health effects test standards and Good Laboratory Practice Standards (44 FR 27334 and 44 FR 44054).

(e) Notice of EPA's proposed action with respect to Acrylamide.

(f) Notice of proposed rule on exemption policy and procedures.

(g) Notice containing the Advance Notice of Proposed Rulemaking on reimbursement policy and procedures.
(h) Notice of rule proposed under Section 8(d) of TSCA requiring submission of health and safety information (44 FR 77470).
(i) Notice of rule proposed under Section 8(a) of TSCA requiring submission of production and exposure-related data (44 FR 13646).
(2) Support Documents:
(a) Chloromethane Support Document
(b) Chlorinated Benzenes Support Document
(c) Economic Analysis Support Document
(d) Exposure Support Document
(e) Chronic Health Effects Standards (May, 1979).
(3) Drafts of Proposed Rule and Support Documents Released to Public before Proposal (March 6, 1980).
(4) Minutes of Informal Public Participation Meetings.
(5) Communications Before Proposal:
(a) Written: Public and Intra-agency or Interagency Memoranda and Comments
(b) Telephone conversations
(c) Meetings
(6) Reports—Published and Unpublished Factual materials. (including contractor's reports).

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and, therefore, subject to the procedural requirements of the Order or whether it may follow other specialized development procedures which EPA labels "specialized" regulations. I have reviewed this regulation and determined that it is a significant regulation subject to the procedural requirements of Executive Order 12044.

XV. Related Actions

EPA proposed health effects test standards for oncogenicity and other chronic effects in the Federal Register on May 9, 1979 (44 FR 27334) and for acute toxicity, eye and dermal irritation, dermal sensitization, subchronic toxicity, teratology, reproductive effects, certain mutagenicity tests, and metabolism on July 26, 1979 (44 FR 44054). The agency proposed standards for Good Laboratory Practices for Health Effects in the Federal Register on May 9, 1979 (44 FR 27362). Amendment to these standards are proposed in todays discussion of Study Plan requirements in Section III. F. of this preamble.

In a separate Federal Register notice appearing today, EPA announces its tentative decision not to require any health effects testing for acrylamide. Acrylamide appeared on the second list of ITC recommendations for testing.

EPA also has published a proposed rule under Section 8(d) of TSCA which would require submission of health and safety studies concerning all chemicals recommended for testing by the Interagency Testing Committee (ITC), 44 FR 77470 (Dec. 31, 1979). A Section 8(a) rule was proposed February 29, 1980 (45 FR 13646) to obtain information from chemical manufacturers on production volume, environmental release, and worker exposure to the same ITC chemicals.

EPA also is proposing a Statement of Exemption Policy and Procedure published in today's Federal Register relating to the granting of exemptions from testing under Section 4(c) of TSCA and approval of joint testing arrangements under Section 4(b)(3)(A).

Dated: July 1, 1980.

Douglas M. Costle,
Administrator.

It is proposed to add a new Part 773 of Chapter I of Title 40 of the CFR to read as follows:

PART 773—IDENTIFICATION OF CHEMICAL SUBSTANCES AND MIXTURES TO BE TESTED

Subpart A—General Provisions

Sec.
773.11 Scope and purpose.
773.12 Applicability.
773.13 Definitions.
773.14 Submission of information.
773.15 Test standards.

Subpart B—Chemical Substances

773.100 Chlorinated Benzenes.
773.130 Chloromethane.

Subpart C—Mixtures [Reserved]

Authority: Section 4, Section 12, and Section 26, Toxic Substances Control Act (TSCA, 90 Stat. 2006, 2033, 2047; 15 U.S.C. 2603, 2611, 2625).

Subpart A—General Provisions

§ 773.1 Scope and purpose.

(a) This part identifies the chemical substances, mixtures, and categories of substances and mixtures for which data are to be developed, specifies the persons required to test (manufacturers, including importers, and/or processors), specifies the test substances(s) in each case, prescribes the tests that are required including the test standards, and provides deadlines for the submission of reports and data to EPA.

(b) This part requires manufacturers and/or processors of chemical substances or mixtures ("chemicals") identified in Subparts B and C to test the chemical in accordance with EPA test standards contained in Part 772 and any modifications to such standards contained in this part in order to develop data on the health and environmental effects of these chemicals. These data will be used by the Administrator to assess the risk of injury to human health or the environment presented by these chemicals.

§ 773.12 Applicability

This part is applicable to each person who manufactures or intends to manufacture (including import) and/or to each person who processes or intends to process a chemical substance or mixture identified in this part for testing during the period commencing with the effective date of this rule until the end of the reimbursement period. Each set of testing requirements in subparts B and C specifies whether those requirements apply to manufacturers only, to processors only, or to both manufacturers and processors.

§ 773.13 Definitions.

The definitions in section 3 of the Toxic Substances Control Act (TSCA) and the definitions of § 770.2 of this chapter apply to this part.

§ 773.14 Submission of information.

Information (Study Plans, Interim Quarterly Summary Reports, Final Test Reports) submitted to EPA must bear the Code of Federal Regulations (CFR) section number of the subject chemical (e.g., 773.130 for chloromethane) and must be addressed to the Document Control Officer, Chemical Information Division, Office of Pesticides and Toxic Substances (TS-793), Environmental Protection Agency, Washington, D.C. 20460.

§ 773.15 Test Standards.

The health effects testing required by this part shall be performed according to the test standards and Good Laboratory Practice (GLP) Standards set forth in Part 772 of this chapter unless modified in this Part.

SUBPART B—CHEMICAL SUBSTANCES

§ 773.100 Chlorinated Benzenes

(a) *Definition of chlorinated benzenes category.*

(1) Pursuant to Sections 26 and 4(a)(1)(A) of TSCA, a structure-based category, chlorinated benzenes, is defined as the group of substituted benzene compounds in which one to five hydrogen atoms of benzene are replaced by chlorine atoms, with no substituents present other than chlorine and hydrogen.

(2) The category includes the following substances:

(i) monochlorobenzene (chlorobenzene, CAS No. 108-90-7),
(ii) 1, 2-dichlorobenzene (*ortho*-dichlorobenzene, CAS No. 95-50-1),
(iii) 1, 3-dichlorobenzene (*meta*-dichlorobenzene, CAS No. 541-73-1),
(iv) 1, 4-dichlorobenzene (*para*-dichlorobenzene, CAS No. 106-46-7),
(v) 1, 2, 3-trichlorobenzene (CAS No. 87-61-6),
(vi) 1, 2, 4-trichlorobenzene (CAS No. 120-82-1),
(vii) 1, 3, 5-trichlorobenzene (CAS No. 108-70-3),
(viii) 1, 2, 3, 4-trichlorobenzene (CAS No. 634-66-2),
(ix) 1, 2, 3, 5-tetrachlorobenzene (CAS No. 634-90-2),
(x) 1, 2, 4, 5-tetrachlorobenzene (CAS No. 95-94-3), and
(xi) pentachlorobenzene (CAS No. 608-93-5).
(3) Hexachlorobenzene is not included in the category for purposes of this rule.

(b) *Identification of test substances.* (1) The following substances shall be tested in accordance with this subpart as representatives of the chlorinated benzenes category.
(i) Monochlorobenzene (CAS No. 108-90-7)
(ii) 1, 2-Dichlorobenzene (*o*-dichlorobenzene, CAS No. 95-50-1)
(iii) 1, 4-Dichlorobenzene (*p*-dichlorobenzene, CAS No. 106-46-7)
(iv) 1, 2, 4-Trichlorobenzene (CAS No. 120-82-1)
(v) 1, 2, 4, 5-Tetrachlorobenzene (CAS No. 95-94-3)
(vi) Pentachlorobenzene (CAS No. 608-93-5)
(2) Chemicals of at least 99.9 percent purity containing no more than 0.05 percent benzene and 0.05 percent hexachlorobenzene shall be used as the test substance in all tests required by this section.

(c) *Persons required to test.* (1) All persons who manufacture, intend to manufacture, process or intend to process one or more chlorinated benzenes defined in paragraph (a) of this section from (effective date of the rule) to (5 years from the date the last final report is due) shall conduct tests and submit data as specified by this subpart.
(2) Persons who manufacture, intend to manufacture process, or intend to process one or more chlorinated benzenes defined in paragraph (a) of this section for export from the United States shall conduct tests and submit data as specified by this subpart.
(3) Any person subject to the requirements of this section may apply to EPA for an exemption from testing pursuant to subpart E of Part 770.

(d) *Health effects testing.*—(1) *Oncogenic effects.*—(i) Required testing.
(A) Testing for oncogenic effects shall be performed on each chlorinated benzene listed in § 773.100(b)(1), excluding monochlorobenzene and 1,2- and 1,4-dichlorobenzenes, in accordance with the proposed test standard in § 772.113-2 of this chapter (44 FR 27334) except that the strain of rat to be used shall be Sprague-Dawley.
(B) The test substance shall be administered in the feed.
(ii) *Reporting requirements.*—
(A) *Study Plans.* The Study Plan required by § 772.113-1(f) of this chapter shall be submitted to EPA at least 90 days prior to the start of oncogenic testing.
(B) *Interim Quarterly Summary Reports.* The Interim Quarterly Summary Reports required by § 772.113-1(j) of this chapter shall be submitted to EPA at least every three months beginning with the start of oncogenic testing and ending with the submission of the Final Report.
(C) *Final Test Report submission date.* The Final Test Report required by § 772.113-1(j) of this chapter shall be submitted to EPA no later than (53 months after the effective date of this rule).
(2) *Structural teratogenic effects.*—(i) *Required testing.*
(A) Testing for structural teratogenic effects shall be performed on each chlorinated benzene listed in § 773.100(b)(1), except for pentachlorobenzene, in accordance with the proposed test standard in § 772.116-2 of this chapter (44 FR 44054).
(B) The route of administration shall be: (*1*) inhalation for monochlorobenzene, 1,2-dichlorobenzene and 1,4-dichlorobenzene, and (*2*) oral gavage for 1,2,4-trichlorobenzene and 1,2,4,5-tetrachlorobenzene.
(ii) *Reporting requirements.*—
(A) *Study Plans.* The Study Plan required by § 773.116-2 of this chapter shall be submitted to EPA no later than the initiation date of the test.
(B) *Interim Quarterly Summary Reports.* No Interim Quarterly Summary Reports are required.
(C) *Final Test Report submission date.* The Final Test Report required by § 773.116-2(c) of this chapter shall be submitted to EPA no later than (11 months after the effective date of this rule).
(3) *Reproductive effects.*—(i) *Requiring testing.*
(A) Testing for reproductive effects shall be performed on each chlorinated benzene listed in § 773.100(b)(1), except for 1,2,4-trichlorobenzene, in accordance with the proposed test standard in § 772.116-3 of this chapter (44 FR 44054).
(B) The route of administration shall be (*1*) inhalation for monochlorobenzene, 1,2-dichlorobenzene and 1,4-dichlorobenzene, and (*2*) oral (administration in the feed) for 1,2,4,5-tetrachlorobenzene and pentachlorobenzene.
(ii) *Reporting requirements.*—
(A) *Study Plans.* A Study Plan required by § 773.116-3(c) of this chapter shall be submitted to EPA at least 90 days prior to the start of the test.
(B) *Interim data.* The Interim Quarterly Summary Reports required by § 773.116-3(c) of this chapter shall be submitted to EPA at least every three months beginning with the start of the reproductive tests and ending with the submission of the Final Test Report.
(C) *Final Test Report.* The Final Test Report required by § 773.116-3(c) of this chapter shall be submitted to EPA no later than 29 months after the effective date of this rule.
(4) *Subchronic/chronic effects.*—(i) *Required testing.*—(A) Testing for chronic effects shall be performed on each chlorinated benzene listed in § 773.100(b)(1) except for pentachlorobenzene. These effects shall be determined in a 90-day subchronic toxicity study conducted in accordance with the proposed test standard in § 772.112-33 (inhalation) and § 772.112-31 (oral) of this chapter *except* that only testing in the rat is required.
(B) The route of administration shall be (*1*) inhalation for monochlorobenzene, 1,2-dichlorobenzene and 1,4-dichlorobenzene, and (*2*) oral (administration in the feed) for 1,2,4-trichlorobenzene, and 1,2,4,5-tetrachlorobenzen.
(ii) *Reporting requirements.*
(A) *Study plans. The Study Plan required by § 772.112-33 and § 772.112-31 shall be submitted to EPA no later than the initiation date of the test.*
(B) *Interim data.* No Interim Quarterly Summary Reports are required.
(C) *Final Test Report submission date.* The Final Test Report shall be submitted to EPA no later than (12 months after the effective date of this rule).

(e) *Environmental effects testing.* [Reserved]

§ 773.130 Chloromethane.

(a) *Identification of test substance.*
(1) Chloromethane (CAS No. 74-87-3, also known as methyl chloride) shall be tested in accordance to this subpart.
(2) Chloromethane of at least 99.95 percent purity shall be used as the test substance in all tests.

(b) *Persons required to test.*

(1) All persons who manufacture, intend to manufacture, process, or intend to process chloromethane from (effective date of the rule) to (5 years from the date the last final report is due) shall conduct tests and submit data as specified by this Part.

(2) Persons who manufacture, intend to manufacture, process, or intend to process chloromethane for export from the United States shall conduct tests and submit data as specified by this subpart.

(3) Any person subject to the requirements of the section may apply to EPA for an exemption from testing pursuant to Subpart E of Part 770.

(c) *Health effects testing.*—(1) *Oncogenic effects.*—(i) *Required testing.* (A) A 2-year oncogenicity study shall be conducted on chloromethane in accordance with the proposed test standard in § 772.113–2 of this chapter (44 FR 27334) *except* that the species used for testing shall be the hamster and the mouse instead of the rat.

(B) The route of administration shall be inhalation.

(ii) *Reporting requirements.*—(A) *Study Plans.* The Study Plan required by § 772.113–1(f) of this chapter shall be submitted to EPA at least 90 days prior to the start of oncogenic testing.

(B) *Interim Quarterly Summary Reports.* The Interim Quarterly Summary Reports required by § 772.113–1(j) of this chapter shall be submitted to EPA at least every three months beginning with the start of oncogenic testing and ending with submission of the Final Test Report.

(C) *Final Test Report Submission Date.* The Final Test Report required by § 772.113–1(j) of this chapter shall be submitted to EPA no later than (53 months after the effective date of this rule).

(2) *Structural teratogenic effects.*

(i) *Required testing.* (A) A test for structural teratogenicity shall be performed in accordance with the proposed test standards in § 772.116–2 of this chapter (44 FR 44054) *except* that the two species used for testing shall not include the rat.

(B) The route of administration shall be inhalation.

(ii) *Reporting requirements.*

(A) *Study Plans.* The Study Plan required by § 772.116–2 of this chapter shall be submitted to EPA no later than the initiation date of the test.

(B) *Interim Quarterly Summary Reports.* No Interim Quarterly Summary Reports are required.

(C) *Final Test Report submission date.* The Final Test Report required by § 772.116–2(c) of this chapter shall be submitted to EPA no later than (11 months after the effective date of this rule).

(d) *Evironmental effects testing.* [Reserved]

Subpart C—Mixtures [Reserved]

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Part VI

Department of Energy

Economic Regulatory Administration

Gas Utility Rate Design Proposals Under the Public Utility Regulatory Policies Act of 1976; Inquiry and Notice of Public Hearing

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-R-80-21]

Gas Utility Rate Design Proposals Under the Public Utility Regulatory Policies Act of 1978; Inquiry and Public Hearings

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of inquiry and public hearings.

SUMMARY: Title III, section 306(b) of the Public Utility Regulatory Policies Act of 1978 (PURPA) requires that the Secretary of Energy develop proposals to improve gas utility rate design and encourage conservation of natural gas. These proposals are to be based on the Gas Rate Design Study, required under section 306(a) of PURPA and submitted to Congress on May 9, 1980, and must be transmitted together with any legislative recommendations to each House of Congress by November 9, 1980. The proposals must include the comments and recommendations of the Federal Energy Regulatory Commission (FERC). Furthermore, public participation in the preparation of the proposals is required by section 306(d) of PURPA. This Notice announces DOE's intent to begin preparation of the proposals. Consistent with the requirements of section 306(d) of PURPA, it solicits public comment on issues related to the formulation of the proposals and schedules three public hearings on these issues.

DATES: Written comments by September 12, 1980. Hearings will be held at the places and on the dates indicated below.

ADDRESSES: All comments addressed to: Department of Energy, Office of Public Hearings Management, Docket No. ERA-R-80-21, 2000 M Street NW., Room 2313, Washington, D.C. 20461.

Requests to speak addressed to:

Chicago Hearing—Ms. Janice Rudzinski, Department of Energy—Region V, Docket No. ERA-R-80-21, 175 W. Jackson Boulevard, Chicago, Illinois 60604, telephone (312) 353-8778. San Francisco Hearing—Ms. Terry Osborn, Department of Energy—Region IX, Docket No. ERA-R-80-21, 333 Market Street, San Francisco, California 94105, telephone (415) 764-7027

Washington, D.C. Hearing—Department of Energy, Office of Public Hearings Management, Docket No. ERA-R-80-21, 2000 M Street NW., Room 2313, Washington, D.C. 20461, telephone (202) 653-3757

HEARING LOCATIONS: Public hearings will be held in three cities, beginning at 9:30 a.m. local time on the dates and at the locations specified below:

City	Hearing date	Requests to speak to be received by 4:30 p.m.	Hearing location
Chicago	Aug. 13, 1980	Aug. 6, 1980	Dirksen Building, Room 204A, 219 S. Dearborn, Chicago, Ill. 60604.
San Francisco	Aug. 20, 1980	Aug. 13, 1980	Hyatt Union Square, Delores Room, 345 Stockton, San Francisco, Calif. 94108.
Washington, D.C.	Sept. 10, 1980	Sept. 3, 1980	2000 M Street NW., Room 2105, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Stephen S. Skjei, Division of Regulatory Assistance, Office of Utility Systems, Economic Regulatory Administration, U.S. Department of Energy, 2000 M Street, NW., Room 4016D, Washington, D.C. 20461, telephone (202) 653-3913. Cynthia Ford, Hearing Procedures, Office of Public Hearings Management, U.S. Department of Energy, 2000 M Street, N.W., Room 2222, Washington, D.C. 20461, telephone (202) 653-3757

William L. Webb, Office of Public Information, Economic Regulatory Administration, U.S. Department of Energy, 2000 M Street, NW., Room B-110, Washington, D.C. 20461, telephone (202) 653-4055.

Mary Ann Masterson, Office of General Counsel, U.S. Department of Energy, James Forrestal Building, Room 1E-254, Washington, D.C. 20585, telephone (202) 252-9516.

SUPPLEMENTARY INFORMATION:

I. Background

On November 8, 1978, the President signed into law the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117, *et seq.* (16 U.S.C. 2601 *et seq.)* as one part of the National Energy Act.

Section 306(b) of PURPA requires the Secretary of Energy to develop proposals to improve gas utility rate design and to encourage conservation of natural gas. These proposals are to be based upon the results of the Gas Rate Design Study which was required under section 306(a) of PURPA and transmitted to Congress on May 9, 1980. Copies of the study can be obtained from the Office of Public Information, Economic Regulatory Administration, 2000 M Street NW., Room B-110, Washington, D.C. 20461.

In the Gas Rate Design Study, DOE concluded that to deal effectively with our national energy problems, gas rate structures should reflect the economic costs of gas, i.e., the costs which the nation avoids if gas is used efficiently. A major advantage of such rate structures is that they conveyed to all users the costs incurred by the nation as a consequence of decisions to use or not to use gas. Moreover, such rate structures are completely consistent with the three purposes of PURPA (end-use conservation, efficient use of utility facilites and resources, and equitable rates).

Rate structures which reflect the economic costs of gas promote sensible levels of end-use conservation in all customer classes, because the commodity charge for gas usage "at the margin" reflects the cost of supplying additional units of gas. Thus, the consumer makes conservation versus consumption decisions in light of the real value to the nation of the gas in question. Economic cost rates also promote the efficient use of utility facilities and resources because if consumers make sensible usage decisions, the utility will be encouraged to make sensible decisions of its own regarding the need for supplemental gas supplies and expensive imports. Economic cost rates are, also, equitable rates because they charge all customer classes on the basis of the national consequences of customer usage decisions.

In addition, rate structures that reflect economic costs would promote a smoother transition to decontrolled wellhead natural gas prices in 1985. Under provisions of the Natural Gas Policy Act of 1978 (NGPA), approximately 55 percent of the gas produced domestically will be decontrolled by 1985. Much of the 45 percent that will remain under price controls will be under contract to interstate pipelines, which will therefore be able to average (or roll in) the price they pay for this gas with whatever

price they pay for decontrolled gas. This access to low-cost, price-controlled gas may very likely give interstate pipelines the opportunity to outbid intrastate pipelines for decontrolled gas. Under existing rolled-in pricing practices, interstate pipelines could pay prices for decontrolled gas which would be in excess of alternative fuel prices and still sell all of their gas at prices competitive with those of alternative fuels. Decontrol could therefor cause price increases and declines in total volumes of gas sold in the intrastate market (where nearly all gas purchased would be at the market price) and could lead to higher average purchase gas costs for both intrastate and interstate pipelines. Economic cost rates would prevent interstate pipelines from using their access to price-controlled gas to subsidize purchases of decontrolled gas. Because the prices they paid for additional gas supplies would be reflected directly in their rates and not averaged in with price-controlled gas, they would not pay prices for gas in excess of the rates their customers were willing to pay (net of transportation costs).

II. Proposals

As a consequences of the Gas Rate Design Study, DOE has concluded that for economic cost rates to be implemented by distribution companies, they must also be implemented by pipelines. That is, it is unlikely that economic cost rates will be used by distribution companies or ordered by regulatory commissions if pipelines continue to use rolled-in pricing. Accordingly, pipeline rate reform must be an important consideration in any set of proposals for gas rate design reform.

Because of the complexity of the rate design problem at the distribution company level, the differences among distribution companies within any State, and the differences among distribution companies in different States, it is also clear that burner tip rates which reflect economic costs should be designed to reflect the conditions and characteristics of individual companies. The challenge in designing proposals requested by Congress is to advance the three national purposes of PURPA (end-use conservation, efficient use of gas utility resources, equitable rates) while preserving State discretion. One way to do this is to take the approach used in Title I of PURPA, which imposes on State regulatory commissions and certain nonregulated utilities the requirement to consider certain policy and ratemaking standards in light of applicable State law and the three PURPA purposes, and require the availability of certain system cost data essential to the consideration process. With suitable modifications to account for the unique characteristics of the natural gas industry, such an approach might provide the basic structure for the gas rate design proposals requested by Congress.

In developing specific proposals for improving gas rate design, DOE is particularly concerned with the question of practicability. While the Gas Rate Design Study concluded that economic cost rates ought to implemented—all else being equal—the purpose of the current inquiry is to identify the concrete steps that would need to be taken by regulators in moving from theory to practice. Accordingly, DOE is focusing on the criteria, information, and procedures needed for prudent regulatory decisionmaking in this area.

The proposals for gas rate design which DOE has identified are the following:

A. *Pipeline Rate Structures.* After 1985, pipelines should use rate structures (for example, inverted rates) in which it is possible to reflect in the tailblocks the price paid for decontrolled gas plus incremental transmission costs. In the initial blocks of these rate structures, rates could be set at a level which will recover pipeline fixed costs (including allowed rate of return) plus the pipeline's cost of (a) price-controlled gas, and (b) any gas currently contracted for prior to 1985 which was not price controlled (e.g., section 107 gas). The size of both the initial and the tailblocks would vary over time. The size of the initial block will change as the price-controlled volumes available to a pipeline decrease or, when contracts for decontrolled gas, negotiated at a time when rolled-in pricing was used, terminate. The tailblock will increase in size as the pipeline increases its purchases of decontrolled gas.

Moreover, as the size of the initial block falls over time, the rate charged for gas in this block will rise because the pipeline must collect its fixed costs over smaller volumes of gas. When the rate charged in the initial block reaches parity with the rate charged in the tailblock, the pipeline might have to resort to fixed charges to recover its fixed costs.

Prior to 1985, the implementation of economic cost rates by pipelines is complicated by the small volumes of decontrolled gas available. DOE welcomes comments on how economic cost based rates might be implemented prior to 1985 by pipelines.

B. *Distribution Company Rate Structures.* State public utility commissions and certain nonregulated gas distribution companies (those with sales in excess of 10 billion cubic feet per year) should consider (a) the use of economic costs as a basis for setting rates, and (b) the implementation of rate structures which reflect economic costs. Rate structures which might be used to reflect economic costs include seasonal with and without customer charge, flat with and without customer charge, inverted, and interruptible. Each State regulatory authority and nonregulated utility would, after holding public hearings, have to make a determination concerning whether economic costs and rate structures reflecting such costs would, if implemented, achieve the PURPA purposes of end-use conservation, efficient use of resources, and equitable rates to consumers.

III. Issues

DOE requests public comment on the proposals and suggestions as to alternatives to those proposals. In addition, DOE is requesting comments on the issues listed below, which relate to the practical problems in implementing these proposals. DOE does not consider this list to be exhaustive and welcomes public comment on any other issues relating to the implementation of economic cost rates.

A. *Pipeline Related Issues.* (1) How can economic cost rates be implemented by pipelines prior to 1985? What rate structures can be used?

(2) What practical problems will pipelines encounter in implementing rate structures that reflect the cost of deregulated gas? Will such rate structures increase the risks that pipelines encounter in earning their allowed rate of return?

(3) What effect would rate structures which reflect the costs of deregulated gas have on pipeline earnings stability? Are these effects related primarily to potential changes in load or other factors?

(4) How should changes in gas purchase costs best be passed through to pipeline customers in rates reflective of economic costs?

(5) How should zone charges related to distance be treated in rates reflective of economic costs?

(6) What effect would rates that reflect incremental gas purchase costs have on (a) the incentive to construct new pipelines, (b) the incentive to expand existing pipelines, (c) the use of long-term supply contracts, (d) the development of supplemental gas supplies, and (e) the development of new storage supplies?

(7) What is the effect of take-or-pay contracts between producers and pipelines on the implementation of economic cost rates?

(8) How should charges associated with gas storage be incorporated into rates reflective of economic costs? What other charges should be included in the tailblock of any rate structure designed to reflect economic costs?

(9) What types of data will pipelines and the FERC need to collect in order to implement economic cost rates? Is this data available? Are data collection mechanisms available that could easily be altered to obtain such data?

B. Distribution Related Issues. (1) What actions, in general, would State regulatory authorities need to take in order to facilitate the implementation of burner tip rates which reflect economic costs, assuming pipeline rates reflect economic costs?

(2) What types of data will State regulatory authorities need to implement rates reflective of economic costs? Is this data currently available? If not, could it conveniently be obtained?

(3) What types of rate structure designs would be most appropriate in reflecting the economic cost of gas for distribution companies given pipeline rates reflective of economic costs?

(4) How should the costs associated with new storage, peak shaving, and distribution capacity be incorporated in distribution rates reflective of economic costs?

(5) How should fixed costs be treated in gas rates where excess capacity exists?

(6) How should interruptible rates be set? What consideration should be given to alternative fuel prices? What problems might result?

(7) How should existing take-or-pay contracts between pipeline and distributor be handled? How should future contract relationships be designed to produce economic cost rates at the city gate?

(8) How should changes in gas purchase costs be passed through to distribution company customers in rates reflective of economic costs.

(9) How should customer classes be defined? What changes, if any, should be made in existing definitions to reflect economic costs?

(C) General Issues (1) How could uneconomic shifts from gas to oil, particularly on the part of industrial users, best be minimized or avoided?

(2) How would rates reflective of economic costs impact the poor and should such impacts be mitigated through rate design or alternative mechanisms?

(3) Should grants-in-aid be provided to small distributors and pipeline companies to help implement proposed reforms in gas rates?

(4) Over what time period should rate design changes be phased-in to ease transition problems? Can actions be taken to facilitate the simultaneous implementation of economic cost-based rates at the pipeline and distribution company levels?

(5) To what extent are the theoretical benefits of economic cost rates likely to be offset by the practical problems and costs of implementation?

IV. Written Comments and Public Conference Procedures.

A. Written Comments. The public is invited to participate in these proceedings by submitting to DOE's Economic Regulatory Administration (ERA) comments with respect to the proposals and issues outlined in Parts II and III above. Comments should be submitted by 4:30 p.m., September 12, 1980, to the address indicated in the "ADDRESSES" section of this Notice and should be identified on the outside of the envelope and on documents submitted with the designation: "Gas Utility Rate Design Proposals, Docket No. ERA–R–80–21." Ten copies should be submitted. All comments received by September 12, 1980, and all other relevant information will be considered by DOE in the development of the proposals. All comments received will be available for public inspection in the DOE Reading Room, 5B–180, James Forrestal Building, 1000 Independence avenue, S.W., Washington, D.C. 20585, and the ERA Office of Public Information, Room B–110, 2000 M Street, NW., Washington, D.C. 20461 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Pursuant to the provisions of 10 CFR 1004.11 (44 FR 1908, January 8, 1979), any person submitting information which he or she believes to be confidential and which may be exempt by law from public disclosure should submit one complete copy and ten copies from which information claimed to be confidential has deleted. In accordance with the procedures established at 10 CFR 1004.11, DOE shall make its own determination with regard to any claim that information submitted be exempt from public disclosure.

B. Public Hearings. (1) *Procedures for Request to Make Oral Presentation.*— The times and places of the public hearings are indicated in the "HEARING LOCATION" section of this Notice. DOE invites any person who has an interest in the formulation of the proposals to make a written request for an opportunity to speak at a public hearing. Requests to speak should be sent to the address indicated in the "ADDRESSES" section of this Notice and must be received before 4:30 p.m. on:

August 6, 1980 for the Chicago hearing;
August 13, 1980 for the San Francisco hearing; and
September 3, 1980 for the Washington, D.C. hearing.

A request should be labeled both on the envelope and on the documents submitted with the designation: "Gas Utility Rate Design Proposals, Docket No. ERA–R–80–21." The request should include a telephone number where the speaker may be contacted through the day before the hearing.

All persons participating in the hearing will be so notified before 4:30 p.m. on:

August 11, 1980 for the Chicago hearing;
August 18, 1980 for the San Francisco hearing; and
September 8, 1980 for the Washington, D.C. hearing.

Speakers should bring 100 copies of their statement to the appropriate hearing location given in the "HEARING LOCATIONS" section of this notice on the day of the Chicago and San Francisco hearings. Speakers at the Washington, D.C. hearing should submit 100 copies of their statement for distribution at the hearing by 4:30 p.m., September 9, 1980 to Office of Public Hearings management, U.S. Department of Energy, Room 2313, 2000 M Street, NW., Washington, D.C. 20461.

(2) *Conduct of the Hearing.*—ERA reserves the right to schedule participants' presentations and to establish the procedures governing the conduct of the hearings. ERA may limit the length of each presentation based on the number of persons requesting to be heard. ERA encourages groups that have similar interests to choose one appropriate spokesperson qualified to represent the views of the group.

ERA will designate officials to preside at the hearings. Questions may be asked only by those conducting the hearings. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if time permits, to make a rebuttal statement. Rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Questions to be asked at the hearings should be submitted in writing to the presiding officer. The presiding officer will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

The question will be asked of the speaker by the presiding officer. The presiding officer will announce any further procedural rules needed for the proper conduct of the hearings.

ERA will have transcripts made of the hearings and will retain the entire record of the hearings, including the transcript. The record will be available for inspection at the DOE Freedom of Information Office, Room 5B–180, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, and the ERA Office of Public Information, Room B–110, 2000 M Street, N.W., Washington, D.C. 20461, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. A copy of the transcripts may be purchased from the reporter.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*); Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7101 *et seq.*))

Issued in Washington, D.C., on July 11, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

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